

Deloitte.

Report

on the

**Audit of the Draft of the De-Merger
and Acquisition Agreement
(„Business Division Austria“)**

**according to § 5 and § 17 No 5 SpaltG
in connection with § 220b Sec 2 AktG**

Report

on the

**Audit of the Draft of the De-Merger and
Acquisition Agreement
("Business Division Austria")**

to be concluded between

Erste Bank der oesterreichischen Sparkassen AG, Wien
as transferring company

and

Dritte Wiener Vereins-Sparcasse AG, Wien
as acquiring company

according to § 5 and § 17 No 5 SpaltG in connection with § 220b Sec 2 AktG

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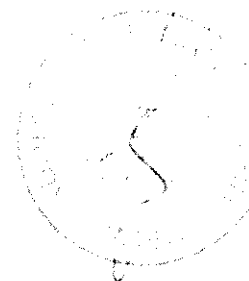


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Abbreviations

acc	according
AktG	Aktiengesetz (Stock Corporation Act)
BWG	Bankwesengesetz (Austrian Banking Act)
No	number
Sec	Section
SpaltG	Spaltungsgesetz (De-Merger Act)
UmgrStG	Umgründungssteuergesetz (Reorganisation Tax Act)

1. To the
Commercial Court Vienna
Company Register

Justizzentrum Wien Mitte
1030 Vienna

a) with reference to FN 33209 m Erste Bank der oesterreichischen
Sparkassen AG
b) with reference to FN 286283 f Dritte Wiener Vereins-Sparcasse AG

2. To the Members of the Supervisory Board of

a) Erste Bank der oesterreichischen Sparkassen AG
b) Dritte Wiener Vereins-Sparcasse AG

3. To the Members of the Management Board of

a) Erste Bank der oesterreichischen Sparkassen AG
b) Dritte Wiener Vereins-Sparcasse AG

I. Engagement

1. According to the resolution of the Commercial Court dated November 8, 2007, ZI FN 286283 f 72 Rf 11782/07 p – 3 based on the joint proposal of the members of the supervisory boards of the transferring company and the acquiring company we were appointed as **joint de-merger auditor** (“**Spaltungsprüfer**”) with respect to the intended de-merger of the “Business Division Austria” including the Assets as described in detail in Section 6 of the De-Merger and Acquisition Agreement from Erste Bank der oesterreichischen Sparkassen AG (hereinafter also referred to as “Transferring Entity” or “Erste Bank”) to Dritte Wiener Vereins-Sparcasse AG as acquiring company (hereinafter also referred to as “Acquiring Company” or “Dritte Wiener”).

According to **§ 5 Sec 1 SpaltG in connection with § 17 No 1 SpaltG** the De-Merger and Acquisition Agreement is subject to a mandatory audit. Waiving such an audit requires the approval of all shareholders of all involved companies. Due to a lack of approval by all shareholders of Erste Bank, the audit of the de-merger for all parties involved is mandatory. According to **§ 220b Sec 2 AktG** we have been appointed by the court as **joint auditor**.

According to **§ 17 No 5 SpaltG** the rules for the merger by takeover (§§ 220 – 233 AktG) are to be applied to the de-merger by takeover to the Transferring Company as practical. The merger report is replaced by the de-merger report. The merger audit is replaced by the de-merger audit.

According to § 17 in connection with § 5 SpaltG the **subject of our audit** is the content of the attached draft of the De-Merger and Acquisition Agreement (“Business Division Austria”), which has to be examined with respect to its completeness and accuracy. The joint report of the Management Board of Erste Bank der oesterreichischen Sparkassen AG and the Management Board of Dritte Wiener Vereins-Sparcasse AG according to § 4 Sec 1 SpaltG and § 17 No 5 SpaltG in connection with § 220a AktG serves only as source of information but is not subject to our audit. The de-

merger will be carried out without issuance/exchange of shares thereby retaining the proportional value of the shareholding without any changes. Therefore, no audit of the exchange ratio is required.

II. Audit Procedures

1. As agreed with the involved companies, our audit is based on the “**General Conditions of Contract for the Public Accounting Professions (AAB 2007)**” issued by the Chamber of Public Accountants and Tax Advisors, which also apply to third parties and are attached to this report as Annex VI.
2. The **audit** was **performed** under the supervision of our managing director Mr. Thomas Becker, certified public accountant.
3. We have **performed the audit** on the basis of several draft **documents**. We have focused our audit on the following documents:

- De-Merger and Acquisition Agreement (“Business Division Austria”), in particular including the following Annexes:

Annex 1	Final Balance Sheet of Erste Bank as of 31.12.2007
Annex 2	De-Merger Balance Sheet (residual assets) of Erste Bank as of 31.12.2007
Annex 3	Transfer Balance Sheet as of 31.12.2007 („Business Division Austria “)
Annex 4	Amended articles of association of the Transferring Company (Erste Bank)
Annex 5	Amended articles of association of the Acquiring Company (Dritte Wiener)

- Joint report of the Management Board of Erste Bank der oesterreichischen Sparkassen AG and the Management Board of Dritte Wiener Vereins-Sparcasse AG according to § 4 Sec 1 SpaltG and § 17 No 5 SpaltG in connection with § 220a AktG (draft)
- Excerpt of the Company Register of Erste Bank as of 27.2.2008
- Excerpt of the Company Register of Dritte Wiener as of 27.2.2008

We have been provided with a joint **representation letter** duly signed by the directors of Erste Bank and Dritte Wiener. This letter confirms that we have been provided with all documents and information, which is - according to the opinion of the signatories - necessary for the audit of the Final Balance Sheet of Erste Bank and of the De-Merger and Acquisition Agreement ("Business Division Austria"). Further, it has been confirmed, that the Transfer Balance Sheet as of 31.12.2007 contains all assets and liabilities including contingent liabilities, which are allocated to the acquiring company as laid down in the De-Merger and Acquisition Agreement ("Business Division Austria"). Further, it has been confirmed that the De-Merger Balance Sheet as of 31.12.2007 of Erste Bank contains all assets and liabilities including contingent liabilities, which remain with the Transferring Company as laid down in the De-Merger and Acquisition Agreement ("Business Division Austria") as of this date. In addition, we have been confirmed that the assets and liabilities as shown in the Transfer Balance Sheet ("Business Division Austria") as well as in the De-Merger Balance Sheet of Erste Bank, both as of 31.12.2007, are properly valued, thereby taking into account the rules as laid down in the Austrian Banking Act as primary rules and the rules as laid down in the Commercial Code applicable as secondary rules. Moreover, the management board of Erste Bank as well as the management board of Dritte Wiener have certified that in the course of the de-merger neither a member of the management board or the supervisory board nor any auditor, foundation auditor, de-merger auditor has received nor will receive any special benefit.

In this context we explicitly note, that according to our legal obligation we have only audited the draft of the De-Merger and Acquisition Agreement ("Business Division Austria") as enclosed as **Annex 1 (draft)**.

4. Based on the results of our audit, which we have performed using the documents mentioned above, we can provide the **subsequent report as required by law** according to § 5 Sec 4 and § 17 SpaltG in connection with § 220b Sec 4 AktG.

III. Audit of the De-Merger and Acquisition Agreement (“Business Division Austria”)

1. Erste Bank is a financial institution incorporated and domiciled in Austria, which engages in domestic and international banking business as well as other business activities. Erste Bank intends to pool central group functions, infrastructure and business units responsible for group wide functions – with the exception of the Austrian core banking activities – in a holding company. This entity shall act as managing holding company as well as an operational bank (altogether “the holding activities”). While the internal organisational and operational changes conditional upon this restructuring have already been implemented within Erste Bank (e.g. appointment of a holding management board committee and an Austrian management board committee) the legal separation of the activities by spinning off the “Business Division Austria” shall be carried out by way of a de-merger through absorption by Dritte Wiener, a 100% subsidiary of Erste Bank. The transfer is carried out according to the rules of the De-merger Act (SpaltG) thereby claiming the benefits of Art. VI of the Reorganisation Tax Act, waiving the right to grant new shares, by way of universal legal succession and continuance of the transferring entity.
2. The information contained in the **De-Merger and Acquisition Agreement (“Business Division Austria”)** is in accordance with the requirements stipulated in § 2 Sec 1 in connection with § 17 No 1 SpaltG. All information applicable to and required for the current restructuring was **fully explained** and is in accordance with the **actual** and **legal** situation. We reach this conclusion, as the requirements stipulated in § 2 Sec 1 SpaltG are dealt with in the De-Merger and Acquisition Agreement („Business Division Austria“) as follows:

1. Information about company name and seat of the Transferring Company and the articles of association of the companies involved in the de-merger corresponding to the rules of **§ 2 Sec 1 No 1 SpaltG**:

Company Name and seat of the Transferring Company Erste Bank are contained in *Section 1.1.* of the De-Merger and Acquisition Agreement („Business Division Austria“).

Company name and seat of the acquiring company Dritte Wiener are contained in *Section 1.2.* of the De-Merger and Acquisition Agreement („Business Division Austria“).

The articles of association of the transferring and of the acquiring company will be revised in the course of the de-merger. The company name of the Transferring Entity will be amended in the course of registration of the actual de-merger to “Erste Group Bank AG”, which requires a corresponding amendment to Section 1.1. of the articles of association. Additionally, the type of business of the transferring entity will be adjusted to the future banking and holding functions. This requires amendments to Section 2. of the articles of association.

Likewise the company name of the Acquiring Company will be amended in the course of the registration of the reorganisation to “Erste Bank der oesterreichischen Sparkassen AG”. Additionally, the type of business of the Acquiring Company will be adjusted to the needs resulting from the acquisition of the “Business Division Austria”. This requires amendments to §§ 1 Sec 1 and 2 Sec 1 to 4 of the articles of association of Dritte Wiener. The drafts of the amended articles of association are enclosed to the De-Merger and Acquisition Agreement (“Business Division Austria”) as *Annex 4 and 5.*

The information about company name and seat of Erste Bank and of Dritte Wiener is in accordance with the current status in the Company Register by the Commercial Court Vienna.

2. Declaration about the transfer of assets from the transferring entity by way of universal legal succession in accordance with **§ 2 Sec 1 No 2 SpaltG:**

The De-Merger and Acquisition Agreement (“Business Division Austria”) explains in *Section 2.1.* and *2.2.* the transfer of the Business Division Austria from Erste Bank to Dritte Wiener by way of de-merger through absorption granting universal legal succession and continuance of the transferring company and by retaining the residual assets and liabilities with the transferring company. The transfer takes place by applying the tax benefits of Art. VI UmgrStG (Reorganisation Tax Act) with retroactive effect as of the end of 31.12.2007 for tax purposes and contractual obligations.

3. Determination of the effective date upon which all activities of the transferring company are considered to be effected for the account of the new (acquiring) company (effective de-merger day) in accordance with **§ 2 Sec 1 No 7 SpaltG:**

According to *Section 5.1* of the De-Merger and Acquisition Agreement (“Business Division Austria”) the expiration of 31.12.2007 is determined as effective date of the de-merger. With the beginning of 1.1.2008 all activities of the Transferring Company are considered to be effected on account of the Acquiring Company.

4. Detailed description of and rules about the allocation of assets and liabilities, which are transferred to the acquiring company in accordance with **§ 2 Sec 1 No 10 SpaltG:**

The De-Merger and Acquisition Agreement (“Business Division Austria”) describes in *Section 6.1 to 6.9* the Assets of the Business Division Austria which are subject to the transfer. According to *Section 6.1.2* the “Business Division Austria” comprises from an organisational point of view all business units, which are under the responsibility of the above mentioned “Austrian management board committee” including „Branches Austria“, „Residential real estate“,

„Corporate banking“ as well as „Private Banking & Asset Management“ and the service units which were previously allocated to this management board committee. From a banking business point of view the “Business Division Austria” comprises the „Retail and Corporate/SME Customer Business“, the business with the Austria Savings Banks and the business with other Austrian banks of a corporate customer nature as well as the business with key accounts including the business and other activities which are allocated to central organisational units to be spun-off.

In *Section 6.2.1* of the De-Merger and Acquisition Agreement („Business Division Austria“) reference is made to the Transfer Balance Sheet (“Business Division Austria”) as of 31.12.2007, which is enclosed as Annex III to this report. On the basis of the enclosed balance sheets and other inventories a detailed description and allocation of the assets and liabilities is made. The Final Balance Sheet of the Transferring Company, as enclosed as Annex II to this report, is in accordance with the balance sheet of Erste Bank as of 31.12.2007. We have assured ourselves, that the Transfer Balance Sheet of the “Business Division Austria” as well as the De-Merger Balance Sheet showing the assets and liabilities, that remain with the transferring company after the de-merger – both dated as of 31.12.2007 – have been derived accordingly from the Final Balance Sheet as of 31.12.2007. In this regard it has to be noted, that the book value of the proportionate equity of the transferred assets in the amount of EUR 260.000.000,- (including the transferred liabilities reserve of EUR 120.000.000,- which has been set-up without tax effect) has already been recorded as an addition to the carrying value of the Acquiring Company in the De-Merger Balance Sheet. As a result, there is no change in the total amount of equity as shown in the balance sheet of the Transferring Company after completion of the de-merger. The Assets mentioned in *Sections 6.1. to 6.9* and in *Annex 3*

and *6 to 11* of the De-Merger and Acquisition Agreement (“Business Division Austria”) which are subject to transfer within the meaning of *Section 6.1.5* of the De-Merger and Acquisition Agreement („Business Division Austria“) are recorded completely and correctly in the Transfer Balance Sheet. The De-Merger Balance Sheet shows the residual assets and liabilities which remain with Erste Bank.

5. Rules about the allocation of assets and liabilities, which otherwise could not be attributed to one of the companies involved in the de-merger on the basis of the De-Merger and Acquisition Agreement, in accordance with **§ 2 Sec 1 No 11 SpaltG**:

According to *Section 6.7* of the De-Merger and Acquisition Agreement (“Business Division Austria”) assets, which cannot be allocated to one of the companies involved in the de-merger, remain with the transferring company.

6. Final balance sheet of the transferring company, de-merger balance sheet of the transferring company, showing the assets and liabilities remaining with the transferring company, in accordance with **§ 2 Sec 1 No 12 SpaltG**:

Both the final balance sheet of Erste Bank as of 31.12.2007 and the de-merger balance sheet of Erste Bank as of 31.12.2007 are duly enclosed as *Annex 1* and *Annex 2* to the De-Merger and Acquisition Agreement (“Business Division Austria”).

3. The **ratio of shareholding** is duly described based on the information and documents obtained. At the effective date of the De-Merger and Acquisition Agreement (“Business Division Austria”) Erste Bank holds all shares of the acquiring company. The acquiring company is allowed to refrain from the issuance of new shares within the meaning of § 224 Sec 2 No 1 AktG. Therefore, according to *Section 3.2* of the De-Merger and Acquisition Agreement (“Business Division Austria”) the explanations according to **§ 2 Sec 1 No 2 last sentence** und **No 3** as well as **No 5** and **No 6 SpaltG** are not made.

- Furthermore, as the transferring company is the sole shareholder of the acquiring company no loss will occur upon the de-merger, as the corresponding amount of transferred equity results in an increase of the carrying value of the acquiring company in the accounts of the transferring company. Accordingly, explanations in the De-Merger and Acquisition Agreement (“Business Division Austria”) within the meaning of **§ 2 Sec 1 No 4 SpaltG** („Business Division Austria“) are not required, which is explicitly stated in *Section 4.1* und *4.2*.
4. According to *Section 10.1.* of the De-Merger and Acquisition Agreement (“qualified business unit”) no special rights will be granted to shareholders or to holders of special rights within the meaning of **§ 2 Sec 1 No 8 SpaltG**.
 5. No special benefits according to **§ 2 Sec 1 No 9 SpaltG** will be granted either to members of the management board and the supervisory board, or to persons being appointed as annual auditor, de-merger auditor and foundation auditor. This is specifically mentioned in *Section 10.2.* and *10.3.* of the De-Merger and Acquisition Agreement (“Business Division Austria”).
 6. The de-merger is neither a change in the proportional value of shareholding within the meaning of **§ 8 Sec 3 SpaltG** nor a change in the legal form within the meaning of **§ 11 SpaltG**. This is also laid down in *Section 10.4.* of the De-Merger and Acquisition Agreement (“Business Division Austria”). Accordingly, neither an explanation within the meaning of **§ 2 Sec 1 No 13 SpaltG** nor a statement of the de-merger auditor about the adequacy of the exchange ratio according to **§ 5 Sec 4 SpaltG** is required.

V. Audit Opinion

On the basis of the documents provided and on the basis of the final results of our audit performed regarding the de-merger of the Business Division Austria we conclude that the De-Merger and Acquisition Agreement (“Business Division Austria”) is in accordance with the legal requirements and the regulations laid down in the articles of association (§ 5 SpaltG).

Vienna, March 12, 2008

AUDITOR TREUHAND GMBH
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft

Mag. Thomas Becker
(Certified Public Accountant)

Dr. Claudia Fritscher-Notthaft
(Certified Public Accountant)

Annex I.

De-Merger and Acquisition Agreement
("Business Division Austria")
acc § 17 SpaltG
(draft)

SPALTUNGS- UND ÜBERNAHMSVERTRAG

(„Teilbetrieb Österreich“)

abgeschlossen

zwischen

Erste Bank der oesterreichischen Sparkassen AG

Graben 21, 1010 Wien,
FN 33209 m,

im Folgenden auch „Erste Bank“ oder
„übertragende Gesellschaft“,
(künftig „Erste Group Bank AG“)

und

Dritte Wiener Vereins-Sparcasse AG

Graben 21, 1010 Wien,
FN 286283 f,

im Folgenden auch „Dritte Wiener“ oder
„übernehmende Gesellschaft“,
(künftig „Erste Bank der
oesterreichischen Sparkassen AG“)

DE-MERGER AND ACQUISITION AGREEMENT

(„Business Division Austria“)

concluded

between

Erste Bank der oesterreichischen Sparkassen AG

Graben 21, 1010 Vienna,
FN 33209 m,

hereinafter „Erste Bank“ or
„Transferring Company“,
(in the future „Erste Group Bank AG“)

and

Dritte Wiener Vereins-Sparcasse AG

Graben 21, 1010 Vienna,
FN 286283 f,

hereinafter „Dritte Wiener“ or
„Acquiring Company“,
(in the future „Erste Bank der
oesterreichischen Sparkassen AG“)

Einleitung

- A.** Die Erste Bank ist ein österreichisches Kreditinstitut, das national und international Bankgeschäfte und andere geschäftliche Aktivitäten betreibt und sich durch die kontinuierliche Erweiterung des Heimmarktes in Mittel- und Osteuropa in den letzten Jahren zu einem der größten Finanzdienstleister in dieser Region entwickelt hat.
- B.** Um diesem starken Wachstum auch in organisatorischer Hinsicht Rechnung zu tragen, wurde durch interne aufbau- und ablauforganisatorische Änderungen eine neue Struktur geschaffen, die das österreichische Kernkundengeschäft in einem eigenen Teilbetrieb zusammenfasst, während parallel innerhalb der gleichen Rechtspersönlichkeit eine Holdingstruktur etabliert wurde, die zentrale Konzernfunktionen, Infrastruktur und Geschäftsbereiche mit konzernweiten Aufgaben zusammenfasst.

Introduction

- A.** Erste Bank is an Austrian credit institution which is operating in the national and international banking business and other business areas; due to the continual expansion of its home market towards Central and Eastern Europe, Erste Bank has in recent years become one of the biggest financial service providers in this region.
- B.** In order to account for this strong growth within its organisation, a new structure has been created by internal operational and organisational changes, which concentrate the Austrian core customer business in a separate business division, while a holding structure has been established within the same legal entity, which aggregates central corporate functions, infrastructure and business divisions with group-wide responsibilities.

- C. Nunmehr strebt die Erste Bank in konsequenter Fortsetzung dieser Strukturänderung die rechtliche Trennung des im Teilbetrieb Österreich zusammengefassten österreichischen Kernkundengeschäftes von den Holdingaktivitäten durch Abspaltung auf eine hundertprozentige Tochtergesellschaft an.
- D. Die Umsetzung soll durch Übertragung des in Punkt 6 dieses Spaltungs- und Übernahmungsvertrages näher beschriebenen Teilbetriebes Österreich von der Erste Bank auf die Dritte Wiener durch Abspaltung zur Aufnahme im Wege der Gesamtrechtsnachfolge gemäß Spaltungsgesetz („SpaltG“) erfolgen.
- E. Die Dritte Wiener ist eine Sparkassen Aktiengesellschaft, deren Alleinaktionärin die Erste Bank ist. Die Dritte Wiener beabsichtigt, den abgespaltenen Teilbetrieb Österreich durch Aufnahme im Wege der Gesamtrechtsnachfolge von der Erste Bank zu übernehmen.

Aus diesem Grund und zur Erreichung dieses Zieles schließen die Dritte Wiener und die Erste Bank diesen Spaltungs- und Übernahmungsvertrag:

Definitionen

Teilbetrieb Österreich:

der zur Erste Bank gehörige und von ihr im Inland geführte Teilbetrieb mit allen ihm zugeordneten Vermögensgegenständen, wie in diesem Spaltungs- und Übernahmungsvertrag in Punkt 6 näher beschrieben.

Schlussbilanz:

die geprüfte Bilanz der Erste Bank zum 31. Dezember 2007, die Bestandteil des Jahresabschlusses der Erste Bank zum 31. Dezember 2007 ist und die diesem Vertrag samt Anhang und Bestätigungsvermerk als Anlage "Schlussbilanz" (Anlage 1) angeschlossen ist;

Spaltungsbilanz:

die Bilanz der Erste Bank zum 31. Dezember 2007, die das der übertragenden Gesellschaft nach der Spaltung verbleibende Vermögen ausweist und die diesem Vertrag als Anlage "Spaltungsbilanz" (Anlage 2) angeschlossen

- C. Now, in consequent continuation of these structural changes, Erste Bank seeks to legally separate the Austrian core customer business, which is concentrated in the Business Division Austria, from the holding activities by way of a de-merger and transfer to a wholly owned subsidiary.

- D. The implementation shall occur by the transfer of the Business Division Austria as outlined in more detail in Clause 6 of this De-Merger and Acquisition Agreement from Erste Bank to Dritte Wiener by a de-merger by transfer by way of universal succession in accordance with the Austrian De-Merger Act (*Spaltungsgesetz*, "SpaltG").

- E. Dritte Wiener is a savings bank stock corporation, whose sole shareholder is Erste Bank. Dritte Wiener intends to acquire from Erste Bank the de-merged Business Division Austria by way of universal succession.

With respect to the foregoing and in order to achieve this aim, Dritte Wiener and Erste Bank are entering into this De-Merger and Acquisition Agreement:

Definitions

Business Division Austria:

the business division belonging to and domestically operated by Erste Bank with all its Assets as described in more detail in Clause 6 of this De-Merger and Acquisition Agreement.

Final Balance Sheet:

the audited balance sheet of Erste Bank as of 31 December 2007, which is a part of the annual financial statement of Erste Bank as of 31 December 2007, and which is attached to this Agreement as "Final Balance Sheet" (Annex 1);

De-Merger Balance Sheet:

the balance sheet of Erste Bank as of 31 December 2007, in which the assets and liabilities of the Transferring Company after the De-Merger are included and which is attached to this Agreement as "De-Merger

sen ist;

Übertragungsbilanz:

die Bilanz zum 31. Dezember 2007, in der nur das der übernehmenden Gesellschaft im Zuge der Spaltung übertragene Vermögen ausgewiesen ist und die diesem Vertrag als Anlage "Übertragungsbilanz" (Anlage 3) angeschlossen ist;

Vertragspartner:

Erste Bank und Dritte Wiener

1. Firma, Sitz und Satzung der Vertragspartner (§ 2 Abs 1 Z 1 SpaltG)

1.1 Übertragende Gesellschaft ist die Erste Bank der oesterreichischen Sparkassen AG mit dem Sitz in Wien und der Geschäftsanschrift 1010 Wien, Graben 21, eingetragen im österreichischen Firmenbuch zu FN 33209 m.

1.2 Übernehmende Gesellschaft ist die Dritte Wiener Vereins-Sparcasse AG mit dem Sitz in Wien und der Geschäftsanschrift 1010 Wien, Graben 21, eingetragen im Firmenbuch zu FN 286283 f.

1.3 Die Satzungen der Erste Bank und der Dritte Wiener werden im Zuge der Abspaltung geändert und neu gefasst. Bei der übertragenden Gesellschaft werden die Präambel, der Gegenstand des Unternehmens und insbesondere die Firma geändert, sodass diese ab Eintragung der gegenständlichen Spaltung im österreichischen Firmenbuch „Erste Group Bank AG“ lauten soll. Bei der übernehmenden Gesellschaft werden insbesondere die Firma und der Unternehmensgegenstand geändert. Die Firma der übernehmenden Gesellschaft soll zukünftig, also ab Eintragung der gegenständlichen Spaltung im österreichischen Firmenbuch, „Erste Bank der oesterreichischen Sparkassen AG“ lauten. Die Entwürfe der im Zuge der Abspaltung, und zwar gleichzeitig mit den Spaltungsbeschlüssen, jeweils neu zu fassenden Satzungen der übertragenden Gesellschaft und der übernehmenden Gesellschaft liegen diesem Spaltungs- und Übernahmevertrag als Anlage 4 und Anlage 5 bei.

Balance Sheet" (Annex 2);

Transfer Balance Sheet:

the balance sheet as of 31 December 2007, in which only the assets and liabilities transferred to the Acquiring Company in the de-merger are included and which is attached to this Agreement as "Transfer Balance Sheet" (Annex 3);

Parties:

Erste Bank and Dritte Wiener

1. Company name, seat and articles of association of the Parties (sec 2 para 1 No 1 SpaltG)

1.1 The Transferring Company is Erste Bank der oesterreichischen Sparkassen AG with its seat in Vienna and the business address 1010 Vienna, Graben 21, registered in the Austrian companies register at FN 33209 m.

1.2 The Acquiring Company is Dritte Wiener Vereins-Sparcasse AG with its seat in Vienna and the business address 1010 Vienna, Graben 21, registered in the Austrian companies register at FN 286283 f.

1.3 The articles of association of Erste Bank and Dritte Wiener will be modified and restated in the course of this de-merger. With respect to the Transferring Company, the preamble, the business purpose of the company, and in particular the name of the company will be modified; upon registration of this de-merger in the Austrian companies register, the Transferring Company shall be named "Erste Group Bank AG". With respect to the Acquiring Company, the name of the company and the business purpose of the company shall be modified. Upon registration of this de-merger in the Austrian companies register, the name of the Acquiring Company shall be "Erste Bank der oesterreichischen Sparkassen AG". The drafts of the amended articles of association of both the Transferring Company and the Acquiring Company, which shall be resolved together with the decision on the de-merger, are attached to this De-Merger and Acquisition Agreement as Annex 4 and Annex

5.

2. Übertragung von Vermögensteilen der übertragenden Gesellschaft (§ 2 Abs 1 Z 2 SpaltG)

2.1 Die Erste Bank als übertragende Gesellschaft und die Dritte Wiener als übernehmende Gesellschaft vereinbaren die Übertragung des Teilbetriebes Österreich mit allen diesem zugehörigen Vermögensgegenständen, wie dieser in Punkt 6 dieses Spaltungs- und Übernahmungsvertrages näher beschrieben wird und den Gegenstand der Übertragung nach diesem Spaltungs- und Übernahmungsvertrag bildet, von der Erste Bank auf die Dritte Wiener durch Abspaltung zur Aufnahme im Wege der Gesamtrechtsnachfolge unter Fortbestand der übertragenden Gesellschaft und Zurückbehaltung des gesamten übrigen Vermögens der übertragenden Gesellschaft. Die Dritte Wiener nimmt die Übertragung des Teilbetriebes Österreich im Wege der Gesamtrechtsnachfolge gemäß den Bedingungen dieses Vertrages an.

2.2 Die Übertragung findet unter Inanspruchnahme der abgabenrechtlichen Begünstigungen des Artikel VI Umgründungssteuergesetz ("UmgrStG") mit steuerrechtlicher und schuldrechtlicher Rückwirkung auf den Ablauf des 31. Dezember 2007 statt.

3. Keine Anteilsgewährung (§ 2 Abs 1 Z 3, 5, 6 SpaltG)

3.1 Die Erste Bank ist Alleinaktionärin der Dritte Wiener. Alle Aktionäre der Erste Bank sind auch an der übernehmenden Gesellschaft Dritte Wiener mittelbar im selben Verhältnis beteiligt. Für die Aktionäre der Erste Bank tritt daher keine Verschiebung der Anteilsverhältnisse ein. Die Vertragspartner halten fest, dass die übernehmende Gesellschaft den Anteilseignern der übertragenden Gesellschaft keine neuen Anteile gewährt (§ 17 Z 5 SpaltG iVm § 224 Abs 2 Z 1 AktG).

3.2 Die Bestimmungen über die Aufnahme von Informationen in den Spaltungs- und Übernahmungsvertrag betreffend die Gewährung von Anteilen an der neuen Gesellschaft

2. Transfer of certain assets and liabilities of the Transferring Company (sec 2 para 1 No 2 SpaltG)

2.1 Erste Bank as Transferring Company and Dritte Wiener as Acquiring Company agree on the transfer of the Business Division Austria with all its assets and liabilities, as outlined in more detail in Clause 6 of this De-Merger and Acquisition Agreement and so constituting the object of transfer according to this De-Merger and Acquisition Agreement, from Erste Bank to Dritte Wiener by a de-merger by transfer by way of universal succession, whereby the Transferring Company shall continue its existence and retain all other assets and liabilities of the Transferring Company. Dritte Wiener accepts the transfer of the Business Division Austria by way of universal succession in compliance with the provisions of this Agreement.

2.2 The transfer takes place with recourse to the tax benefits of Article VI of the Tax Restructuring Act (*Umgründungssteuergesetz*, "UmgrStG") with fiscal and contractual retroactive effect to the end of 31 December 2007.

3. No granting of shares (sec 2 para 1 No 3, 5, 6 SpaltG)

3.1 Erste Bank is the sole shareholder of Dritte Wiener. All shareholders of Erste Bank are indirectly participating in the same proportion in the Acquiring Company Dritte Wiener. Thus, for the shareholders of Erste Bank no change of their shareholdings occurs. The Parties agree that the Acquiring Company will not grant new shares to the shareholders of the Transferring Company (sec 17 No 5 SpaltG in connection with sec 224 para 2 No 1 of the Austrian Stock Corporation Act, *Aktiengesetz*, "AktG").

3.2 The provisions on the inclusion of information into this De-Merger and Acquisition Agreement regarding the granting of shares in the new company

gemäß § 2 Abs 1 Z 2 letzter Satzteil SpaltG, das Umtauschverhältnis der Anteile und deren Aufteilung auf die Anteilhaber gemäß § 2 Abs 1 Z 3 SpaltG, die Einzelheiten für die Gewährung von Anteilen an der neuen Gesellschaft gemäß § 2 Abs 1 Z 5 SpaltG und den Zeitpunkt der Anspruchsgewährung gemäß § 2 Abs 1 Z 6 SpaltG finden auf die gegenständliche Abspaltung zur Aufnahme keine Anwendung.

according to sec 2 para 1 No 2 last sentence SpaltG, the exchange rate of the shares and their assignment to the shareholders according to sec 2 para 1 No 3 SpaltG, the details of the granting of shares in the new company according to sec 2 para 1 No 5 SpaltG, and the timing of the granting of shares according to sec 2 para 1 No 6 SpaltG, do not apply to this de-merger.

4. Unterbleiben einer Kapitalherabsetzung (§ 2 Abs 1 Z 4 SpaltG)

4. No decrease of the share capital (sec 2 para 1 No 4 SpaltG)

4.1. Der tatsächliche Wert des verbliebenen Nettoaktivvermögens der übertragenden Gesellschaft übersteigt die Höhe ihres Grundkapitals zuzüglich gebundener Rücklagen nach Durchführung der Spaltung.

4.1. The actual value of the residual net assets of the Transferring Company exceeds the amount of its nominal share capital plus restricted reserves after the implementation of the de-merger.

4.2. Das Grundkapital der übertragenden Gesellschaft wird nicht herabgesetzt. Es erfolgt keine Zusammenlegung von Anteilen an der übertragenden Gesellschaft.

4.2. The nominal share capital of the Transferring Company will not be reduced. A consolidation of shares in the Transferring Company will not take place.

5. Spaltungsstichtag (§ 2 Abs 1 Z 7 SpaltG)

5. Effective day of the de-merger (sec 2 para 1 No 7 SpaltG)

5.1 Die Spaltung erfolgt zum Stichtag 31. Dezember 2007 (§ 33 Abs 6 UmgrStG), sodass im Verhältnis zwischen den an der Spaltung beteiligten Gesellschaften Erste Bank und Dritte Wiener – ungeachtet der Wirkung der Übertragung gemäß § 14 Abs 2 SpaltG mit dem Zeitpunkt der Eintragung der Spaltung im österreichischen Firmenbuch – schuldrechtlich und steuerrechtlich alle Handlungen der Erste Bank in Bezug auf den Teilbetrieb Österreich mit Wirkung ab Beginn des 1. Jänner 2008 als auf Rechnung der übernehmenden Gesellschaft vorgenommen gelten.

5.1 The de-merger takes place with effect of 31 December 2007 (sec 33 para 6 UmgrStG), so that – regardless of the effectiveness of the transfer upon registration of the de-merger in the Austrian companies register pursuant to sec 14 para 2 SpaltG – for fiscal and contractual purposes between the involved Parties Erste Bank and Dritte Wiener, all actions of Erste Bank after the beginning of 1 January 2008 regarding the Business Division Austria are deemed to be taken for the account of the Acquiring Company.

5.2 Ab Beginn des 1. Jänner 2008 treffen alle Handlungen, Nutzungen und Lasten, Rechte und Pflichten des Teilbetriebes Österreich die übernehmende Gesellschaft, die in alle von der Erste Bank den Teilbetrieb Österreich betreffenden abgeschlossenen Geschäfte und generell in alle diesbezüglichen Rechte und Pflichten eintritt. Daher stehen auch sämtliche von zum

5.2 From the beginning of 1 January 2008, all actions, benefits and burdens, rights and obligations regarding the Business Division Austria shall be for the account of the Acquiring Company, which shall succeed into all transactions concluded by Erste Bank with respect to the Business Division Austria and shall in general succeed into all rights and obliga-

Teilbetrieb Österreich gehörigen Beteiligungen ab diesem Tag ausgezahlte oder zugewiesene Gewinnanteile der übernehmenden Gesellschaft zu.

tions accordingly. Thus, from this day on, the Acquiring Company is entitled to all paid or assigned dividends regarding holdings that belong to the Business Division Austria.

6. Genaue Beschreibung und Zuordnung von Vermögensteilen (§ 2 Abs 1 Z 10 und 11 SpaltG)

6. Detailed description and assignment of certain assets and liabilities (sec 2 para 1 No 10 and 11 SpaltG)

6.1 Die genaue Beschreibung und Zuordnung der Vermögensteile, die an die übernehmende Gesellschaft übertragen werden, einerseits, und jener Vermögensteile, die bei der übertragenden Gesellschaft verbleiben, andererseits, ergibt sich nach Maßgabe der folgenden Bestimmungen:

6.1 The exact description and assignment of the Assets which shall be transferred to the Acquiring Company and of the Assets which shall remain with the Transferring Company shall be determined as follows:

6.1.1 Gegenstand der Abspaltung ist der Vermögensteil Teilbetrieb Österreich.

6.1.1 The object of this de-merger is the Business Division Austria.

6.1.2 Aufbauorganisatorisch umfasst der Teilbetrieb Österreich insbesondere die unterhalb des Österreich-Vorstandsausschusses angesiedelten Geschäftsfelder Filialen Österreich samt Wohnbaugeschäft, Kommerz, sowie Private Banking & Asset Management und die diesem Vorstandsausschuss zugeordneten Serviceeinheiten. In geschäftlicher Hinsicht umfasst der Teilbetrieb Österreich das Retail und Corporate/SME Customer Business, das Geschäft mit österreichischen Sparkassen und das Geschäft mit österreichischen Banken mit Kommerzkundencharakter, sowie das Geschäft mit Großkunden, wie im Wesentlichen in den Teilsegmenten "Österreich – Retail und Wohnbau" und „Großkunden“ im Konzernabschluss 2007 abgebildet, samt den von den zugeordneten zentralen Organisationseinheiten betriebenen Geschäften und Aktivitäten.

6.1.2 With respect to its organisational structure, the Business Division Austria comprises in particular the business areas Austrian branches including the mortgage business, commercial banking as well as private banking and asset management, all of which are in the responsibility of the Austria management board committee, and the service units attributed to such management board committee. With respect to business affairs, the Business Division Austria comprises the retail and corporate/SME customer business, the business with Austrian savings banks, the business with Austrian banks classified as commercial banking customers as well as the business with large customers, as basically outlined in the sub-segments "Austria – Retail and Mortgage" and „Large Corporates“ of the consolidated financial statement 2007, including the transactions and activities conducted by the attributed central organisational units.

6.1.3 Die unterhalb des Holding-Vorstandsausschusses angesiedelten Geschäftsfelder Global Markets, welches auch das Treasury Business einschließt, sowie Group Corporate & Investment Banking, welches insbesondere das Investment Banking und das International Business samt den Filialen New York, London und Hongkong einschließt, ebenso wie die

6.1.3 The business areas Global Markets, which also includes the Treasury Business, as well as Group Corporate & Investment Banking, which in particular includes the Investment Banking and the International Business, together with the branch offices New York, London and Hong Kong, as well as the other organisational units within the responsi-

weiteren unterhalb dieses Vorstands-ausschusses angesiedelten Organisationseinheiten mit konzernweiten Infrastrukturaufgaben und sonstigen zentralen, insbesondere steuernden, Konzernfunktionen samt allen von diesen Organisationseinheiten betriebenen Geschäften und Aktivitäten gehören weder aufbauorganisatorisch noch in geschäftlicher Hinsicht zum Teilbetrieb Österreich und sind daher nicht Gegenstand der Abspaltung, sondern verbleiben bei der übertragenden Gesellschaft.

6.1.4 Zum Teilbetrieb Österreich gehören sämtliche diesem Teilbetrieb zugeordneten Vermögensgegenstände.

6.1.5 Für die Zuordnung wesentliche Prinzipien und Begriffsbestimmungen:

a) Der Begriff „Vermögensgegenstände“, wie in diesem Vertrag verwendet, umfasst bilanzierungsfähige Aktiva und Passiva, sonstige Forderungen und Verbindlichkeiten, Rechte und Pflichten, sowie sonstige Vertragsbeziehungen mit Dritten, einschließlich Rechte und Pflichten, Lasten und Obliegenheiten außervertraglicher Natur, und in jedem Fall gleichgültig ob dinglicher oder schuldrechtlicher Natur oder privatrechtlicher oder öffentlichrechtlicher Natur.

b) Zuordnung über die Kontonummer: Soweit für die Erfassung, Durchführung oder Erfüllung bankgeschäftlicher Rechtsverhältnisse bei der übertragenden Gesellschaft ein Konto geführt wird oder generell in Zusammenhang mit einem bankgeschäftlichen Rechtsverhältnis dieses auf einem Konto bei der übertragenden Gesellschaft abgebildet ist, wird für die Zuordnung dieses Rechtsverhältnisses und generell der Rechtsbeziehung zum Kunden auf die Zuordnung des über die Kontonummer identifizierten Kontos abgestellt. Gleiches gilt für die Zuordnung von Rechtsverhältnissen, die die Bestellung von Sicherheiten zugunsten der übertragenden Gesellschaft zum Gegenstand haben - dabei wird auf das zu besichernde Rechtsgeschäft und das zur Abbildung dieses Rechtsgeschäftes geführte Konto abgestellt.

c) Ausnahme vom Prinzip der Zuordnung

bility of the Holding management board committee, with group-wide infrastructural assignments and other central and in particular steering group functions including all transactions and activities conducted by these units, neither with respect to the organisational structure nor with respect to business activities form part of the Business Division Austria, but remain with the Transferring Company.

6.1.4 The Business Division Austria contains all Assets which are assigned to it.

6.1.5 The main principles and definitions for the assignment are:

a) The term „Assets“, as used in this Agreement includes balanceable assets and liabilities, other receivables and payables, rights and obligations, as well as other contractual relationships with third parties, including rights and obligations, encumbrances and obligations of a non-contractual nature, and in each case regardless of whether they are of in rem or contractual or private or public law nature.

b) Assignment according to the bank account number: Insofar as the Transferring Company maintains an account for the recording, settlement or completion of bank-related legal relationships, or a bank-related legal relationship is generally reflected in such an account by the Transferring Company, the assignment of such legal relationship and the legal relationship with the customer in general shall be based on the assignment of such account identified by its account number. The same applies for the assignment of legal relationships with respect to the grant of securities for the benefit of the Transferring Company – hereby the legal relationship which is to be secured and its corresponding account shall be relevant.

c) Exception from the principle of assignment according to the bank ac-

über das Konto: Von der Zuordnung über das Konto generell ausgeschlossen sind die von den Filialen New York, London und Hongkong in deren Buchungssystemen erfassten bankgeschäftlichen Rechtsverhältnisse – diese verbleiben wie alle übrigen sich auf die Geschäfte und Aktivitäten dieser Auslandsfilialen beziehenden Vermögensgegenstände jedenfalls bei der übertragenden Gesellschaft.

d) Als „Kunden“ werden umfassend sämtliche Partner aus bankgeschäftlichen Rechtsverhältnissen bezeichnet, unabhängig davon ob es sich dabei um natürliche Personen oder juristische Personen oder um Nichtbanken oder Kreditinstitute handelt.

e) Für die Erfassung der Organisationseinheiten, die bei der übertragenden Gesellschaft verbleiben, und für die Zuordnung von Vermögensgegenständen, die zu dem bei der übertragenden Gesellschaft verbleibendem Restvermögen gehören, wurde eine neue organisatorische Kennung geschaffen, diese lautet „0196“. Eine Organisationseinheit mit einer anderen Kennung als „0196“ gilt als zum Teilbetrieb Österreich gehörig.

6.2 Dem Teilbetrieb Österreich sind die folgenden Vermögensgegenstände zugeordnet:

6.2.1 die in der Übertragungsbilanz (Anlage 3) ersichtlichen oder aus dieser zuordenbaren Vermögensgegenstände. Mit dem Teilbetrieb Österreich wird eine - in der Erste Bank ohne steuerliche Wirkung gebildete - Hafrücklage im Ausmaß von EUR 120.000.000 mit übertragen;

6.2.2 die öffentlich-rechtlichen Bewilligungen wie folgt:
a) die Erste Bank verfügt über die in Anlage 6 aufgelisteten Berechtigungen, Bankgeschäfte zu betreiben („Bankkonzessionen“). Entsprechend den Grundsätzen des Bankwesengesetzes („BWG“) gehen alle Bankkonzessionen, die den Teilbetrieb Österreich betreffen, auf die übernehmende Gesellschaft über. Die bei der übertragenden Gesellschaft bestehenden Bankkonzessionen bleiben im Rahmen der von ihr

count number: Excluded from the assignment based on the bank account are in general the bank-related legal relationships registered in the booking systems of the branch offices New York, London and Hong Kong – these remain with the Transferring Company as do all other Assets with reference to transactions and activities of the mentioned foreign branch offices.

d) "Customers" are comprehensively all partners in bank-related legal relationships, regardless of whether they are individuals or legal entities or non-banks or credit institutions.

e) In order to list the organisational units that remain with the Transferring Company, and for the assignment of Assets which belong to the residual property that stays with the Transferring Company, a new organisational identification has been created, being "0196". An organisational unit with an identification other than "0196" is deemed to belong to the Business Division Austria.

6.2 The following Assets are assigned to the Business Division Austria:

6.2.1 The Assets listed in the Transfer Balance Sheet (Annex 3) or Assets attributable thereof. A liabilities reserve – which has been established within Erste Bank without fiscal effect – in the amount of EUR 120,000,000 shall be transferred together with the Business Division Austria;

6.2.2 the public law licenses as follows:
a) Erste Bank has the licences to operate in the banking business as listed in Annex 6 ("Banking Licenses"). According to the principles of the Austrian Banking Act (*Bankwesengesetz*, "BWG"), all Banking Licenses in relation to the Business Division Austria transfer to the Acquiring Company. The Banking Licenses existing with respect to the Transferring Company remain in force within the scope of the banking

betriebenen Bankgeschäfte aufrecht.
b) die in Anlage 6 angeführten gewerbe-
rechtlichen und abgabenrechtlichen Bewil-
ligungen;

business as conducted by the Transfer-
ring Company.
b) trade law and tax law related li-
censes as listed in Annex 6;

6.2.3 sämtliche Vermögensgegenstände,
wie sie in diesem Vertrag als zum Teilbe-
trieb Österreich gehörig genannt werden,
insbesondere

6.2.3 all Assets as assigned to the Busi-
ness Division Austria according to the
provisions of this Agreement, in particu-
lar

a) alle Rechtsverhältnisse mit Kunden aus
Darlehensgeschäften und Kreditgeschäf-
ten (Geld- und Haftungskredite) samt den
damit verbundenen Sicherheiten, mit Aus-
nahme der in der Anlage 7 durch die Kon-
tonummern näher spezifizierten Rechts-
verhältnisse aus Darlehensgeschäften und
Kreditgeschäften samt den damit verbun-
denen Sicherheiten – diese verbleiben bei
der übertragenden Gesellschaft,

a) all legal relationships with Customers
arising from loan activities and credit ac-
tivities (money und guarantee credits)
including pertaining securities, with the
exception of the legal relationships aris-
ing from loan activities and credit activi-
ties including the pertaining securities
more closely specified by the bank ac-
count numbers listed in Annex 7 – these
remain with the Transferring Company,

b) alle Rechtsverhältnisse mit Kunden aus
Einlage- und Spargeschäften (Passivpro-
dukte), mit Ausnahme der in der Anlage 7
durch die Kontonummern näher spezifizier-
ten Rechtsverhältnisse aus Einlage- und
Spargeschäften – diese verbleiben bei der
übertragenden Gesellschaft,

b) all legal relationships with Customers
arising from deposit and savings activi-
ties (passive products), with the excep-
tion of the legal relationships arising
from deposit and savings activities more
closely specified by the bank account
numbers listed in Annex 7 – these re-
main with the Transferring Company,

c) alle Rechtsverhältnisse mit Kunden aus
dem Girogeschäft (Durchführung des bar-
geldlosen Zahlungsverkehrs und des Ab-
rechnungsverkehrs in laufender Rech-
nung), mit Ausnahme der in der Anlage 7
durch die Kontonummern näher spezifizier-
ten Rechtsverhältnisse aus dem Giroge-
schäft – diese verbleiben bei der übertra-
genden Gesellschaft,

c) all legal relationships with Customers
arising from payment activities (settle-
ment of cashless payment transactions
and clearance transactions in current
accounts), with the exception of the le-
gal relationships arising from payment
activities more closely specified by the
bank account numbers listed in Annex 7
– these remain with the Transferring
Company,

d) alle Rechtsverhältnisse mit Kunden aus
Wertpapiergeschäften (insb. Kauf- und
Verkaufstransaktionen) sowie Depotge-
schäften, mit Ausnahme der in der Anlage 7
durch die Kontonummern näher spezifi-
zierten Rechtsverhältnisse aus Wertpa-
piergeschäften sowie Depotgeschäften -
diese verbleiben bei der übertragenden
Gesellschaft,

d) all legal relationships with Customers
arising from securities transactions (in
particular purchase und sales transac-
tions) and deposit activities, with the ex-
ception of the legal relationships arising
from securities transactions and deposit
activities more closely specified by the
bank account numbers listed in Annex 7
– these remain with the Transferring
Company,

e) alle Rechtsverhältnisse mit Kunden aus
dem Kartengeschäft, mit Ausnahme der in
der Anlage 7 durch die Kontonummern nä-
her spezifizierten Rechtsbeziehungen aus

e) all legal relationships with Customers
arising from the card business, with the
exception of the legal relationships aris-
ing from the card business more closely

dem Kartengeschäft – diese verbleiben bei der übertragenden Gesellschaft,

specified by the bank account numbers listed in Annex 7 – these remain with the Transferring Company,

- f) alle Rechtsverhältnisse mit Kunden aus Schließfachverwaltungsgeschäften (Safes, Brief- und Sparbuchschießfächer), f) all legal relationships with Customers arising from safe deposit box administration activities (safes, mailbox lockers and bankbook lockers),
- g) die Rechtsverhältnisse mit Kunden aus Finanztermingeschäften unter der Voraussetzung, dass mit dem jeweiligen Kunden auch ein bankgeschäftliches Rechtsverhältnis besteht, das gemäß Punkt 6.2.3 a) bis d) als zum Teilbetrieb Österreich gehörig genannt ist. Alle Rechtsverhältnisse mit Kunden aus Finanztermingeschäften, bei denen diese Voraussetzung nicht zutrifft, verbleiben bei der übertragenden Gesellschaft ebenso wie jene, bei denen die genannte Voraussetzung zwar zutrifft, jedoch eine Abbildung des Rechtsverhältnisses mit dem Kunden aus dieser Geschäftsart durch eine der in Anlage 7 angeführten Kontonummern gegeben ist, g) legal relationships with Customers arising from financial futures activities, always provided that also a bank-related legal relationship which belongs to the Business Division Austria pursuant to Clauses 6.2.3 a) to d) exists with the corresponding Customer. All legal relationships with Customers arising from financial futures activities that do not fulfil the foregoing requirement remain with the Transferring Company, as do those that fulfil the foregoing requirement but are identified by one of the bank account numbers as listed in Annex 7,
- h) generell alle sonstigen bankgeschäftlichen Rechtsverhältnisse mit Kunden, die geschäftsverantwortlich über die dem Teilbetrieb Österreich zugeordneten Organisationseinheiten abgewickelt und gesteuert werden, h) in general all other bank-related legal relationships with Customers that are conducted on the account of organisational units attributed to the Business Division Austria,
- i) alle Rechtsverhältnisse mit Partnern betreffend Vermittlungs- und Beratungsgeschäfte und Kooperationen zu den in diesem Punkt 6.2.3 genannten Bankgeschäften des Teilbetriebs Österreich; i) all legal relationships with partners concerning intermediary and advisory services and co-operations with respect to the banking activities of the Business Division Austria as outlined in this Clause 6.2.3;

6.2.4 alle dinglichen Rechte an beweglichen und unbeweglichen Sachen sowie alle Ansprüche aus persönlichen Sicherheiten, die der Erste Bank zur Sicherung von Ansprüchen aus den dem Teilbetrieb Österreich zugeordneten Vermögensgegenständen, insbesondere aus den in Punkt 6.2.3 erwähnten Geschäftsbeziehungen, eingeräumt worden sind;

6.2.4 all rights in rem in moveable and immovable property as well as all rights arising from personal securities that have been granted to Erste Bank to secure rights from Assets attributed to the Business Division Austria, in particular arising from the business relations described in Clause 6.2.3;

6.2.5 alle zugunsten der Erste Bank im Inland eingetragenen Markenrechte, mit Ausnahme der im österreichischen Patentamt unter den Markenregisternummern 90.022, 90.023, 90.024, 90.025, 90.026, 91.360, 122.260, 122.261, 170.975,

6.2.5 all trademarks registered domestically for the benefit of Erste Bank except the trademarks registered in the Austrian patent office with the trademark registration numbers 90.022, 90.023, 90.024, 90.025, 90.026, 91.360,

170.976, 171.834, 171.839, 172.446, 234.734 und 240.881 eingetragenen Marken – diese Marken und die außerhalb Österreichs zugunsten der Erste Bank eingetragenen Markenrechte verbleiben bei der übertragenden Gesellschaft;

122.260, 122.261, 170.975, 170.976, 171.834, 171.839, 172.446, 234.734 and 240.881 – these trademarks and the trademarks for the benefit of Erste Bank registered outside of Austria remain with the Transferring Company;

6.2.6 das gesamte zum Teilbetrieb Österreich gehörige Anlagevermögen aus Sachanlagen und immateriellen Vermögensgegenständen, wie insbesondere die für den Teilbetrieb Österreich verwendete im Eigentum der Erste Bank befindliche EDV-Hardware sowie sonstige Büro- und Geschäftsausstattung, wie es in der diesem Vertrag angeschlossenen Anlage 8 im einzelnen mittels der zugehörigen Inventarnummern angeführt ist;

6.2.6 all fixed assets pertaining to the Business Division Austria consisting of tangible and intangible assets, in particular the IT-hardware utilized by the Business Division Austria and owned by Erste Bank as well as other office equipment as individually listed in the hereto attached Annex 8 by corresponding inventory numbers;

6.2.7 sämtliche verbücherten und nicht verbücherten Bestandsrechte an Liegenschaften, die für den Teilbetrieb Österreich, insbesondere für dessen Filialen und Kommerzzentren, benützt werden und in Anlage 9 erfasst sind. Soweit für den Teilbetrieb Österreich Liegenschaften genutzt werden, die im Eigentum der Erste Bank stehen, wird die übertragende Gesellschaft mit der übernehmenden Gesellschaft hierüber gesondert Nutzungsregelungen vereinbaren;

6.2.7 all registered and non-registered lease contracts for real property objects that are used by the Business Division Austria, in particular by its branch offices and commercial centers, and which are listed in Annex 9. Insofar as real property owned by Erste Bank is used by the Business Division Austria, the Transferring Company shall conclude a separate agreement with the Acquiring Company with respect to their use;

6.2.8 alle dem Teilbetrieb Österreich zugeordneten und in der Anlage 10 angeführten Beteiligungen einschließlich der darin angeführten für die übertragende Gesellschaft von Beteiligungsgesellschaften als Treuhänder der übertragenden Gesellschaft gehaltenen Beteiligungen, jeweils in dem aus der Anlage ersichtlichen Ausmaß; mit diesen Beteiligungen gehen auch sämtliche auf die jeweilige Gesellschafterstellung der Erste Bank bezüglichen Rechtsverhältnisse auf die übernehmende Gesellschaft über, insbesondere jene aus den zugrunde liegenden Erwerbsvorgängen sowie sonstige Rechte wie Vorkaufs- und Aufgriffsrechte; die Dritte Wiener tritt mit allen Rechten und Pflichten an Stelle der Erste Bank als Vertragspartei in alle diesbezüglichen Syndikats- und sonstigen Gesellschafterverträge und Treuhandverträge ein;

6.2.8 all holdings attributed to the Business Division Austria and listed in Annex 10 including the shares listed therein held for the benefit of the Transferring Company by group companies as trustees, each in the amount as set forth in the attached annex; together with these holdings all corresponding legal relationships of Erste Bank as shareholder transfer to the Acquiring Company, in particular in relation to the underlying acquisition transactions as well as all rights such as rights of first refusal and all options; Dritte Wiener succeeds to all rights and obligations of Erste Bank as contracting party in all relevant syndication and other corporate agreements as well as trust agreements;

6.2.9 alle Rechte und Ansprüche gegenüber dritten Personen, soweit sich diese

6.2.9 all rights and claims vis-à-vis third parties, insofar as such rights and

Rechte und Ansprüche auf Geschäfte und Aktivitäten der dem Teilbetrieb Österreich zugeordneten Organisationseinheiten beziehen oder damit nachweislich in einer engen Verbindung stehen;

claims are related to transactions and activities of organisational units attributed to the Business Division Austria or are demonstrably closely connected therewith;

6.2.10 alle Verbindlichkeiten und Lasten gegenüber dritten Personen, soweit sich diese Verbindlichkeiten und Lasten auf Geschäfte und Aktivitäten der dem Teilbetrieb Österreich zugeordneten Organisationseinheiten beziehen oder damit nachweislich in einer engen Verbindung stehen;

6.2.10 all obligations and liabilities vis-à-vis third parties, insofar such obligations and liabilities are related to transactions and activities of organisational units attributed to the Business Division Austria or are demonstrably closely connected therewith;

6.2.11 generell alle Vermögensgegenstände, insbesondere Rechte und Pflichten aus laufenden oder ausgeführten sonstigen Vertragsverhältnissen einschließlich aller Ansprüche und Rechte, Rückstellungen, Pflichten und Verbindlichkeiten daraus, einschließlich Mitgliedschaften, sowie anhängige Rechtsstreitigkeiten in Gerichts-, Schiedsgerichts- und Verwaltungsverfahren, soweit der jeweilige Vermögensgegenstand eindeutig, nachvollziehbar oder überwiegend betriebsnotwendig den im Teilbetrieb Österreich betriebenen Geschäften oder Aktivitäten zuzuordnen ist;

6.2.11 in general all Assets, in particular rights and obligations with respect to pending or closed other contractual relationships including all claims and rights, reserves, obligations and liabilities thereto, including memberships as well as pending legal proceedings at courts, arbitration tribunals and administrative procedures, insofar as the relevant Asset is unambiguously or comprehensibly attributed to the transactions and activities conducted by the Business Division Austria or predominantly required for its operations;

6.3 Der Teilbetrieb Österreich umfasst auch die im Teilbetrieb Österreich beschäftigten oder diesem zugeordneten Mitarbeiter samt allen Rechten und Pflichten aus den arbeitsrechtlichen Beziehungen, wie folgt:

6.3 The Business Division Austria includes all staff employed therein or thereto attributed personnel including all rights and obligations arising from labour law relationships, as follows:

6.3.1 Der Begriff "Mitarbeiter" bezeichnet alle Arbeitnehmer, einschließlich Lehrlinge, die gemäß Berufsausbildungsgesetz in einem Ausbildungsverhältnis stehen, freie Dienstnehmer sowie andere auf Werkvertrags- oder sonstiger vertraglicher Basis bei der Erste Bank beschäftigte Arbeitnehmer.

6.3.1 The term "Employee" includes all employees, including trainees pursuant to the Austrian Apprenticeship Act (*Berufsausbildungsgesetz*), freelance employees as well as staff employed on the basis of a service contract or other contractual relationship with Erste Bank.

6.3.2 Alle Arbeitsverhältnisse und sonstigen dienstrechtlichen Rechtsbeziehungen mit Mitarbeitern gehen auf die übernehmende Gesellschaft über; dies mit Ausnahme der Arbeitsverhältnisse und sonstigen dienstrechtlichen Rechtsbeziehungen mit jenen Mitarbeitern, die, jeweils identifiziert durch ihre Personalnummer, in Anlage 11 angeführt werden – diese verbleiben bei der übertragenden Gesellschaft. Ebenso verbleiben bei der übertragenden Gesellschaft die Arbeitsverhältnisse und sonstigen

6.3.2 All employment contracts and other labour law related relationships with Employees transfer to the Acquiring Company, except those employment contracts and other labour law related relationships with Employees that are identified by their personnel number, listed in Annex 11 – these remain with the Transferring Company. Likewise the Employees with employment contracts and other labour law related relationships with the branch offices New York,

dienstrechtlichen Rechtsbeziehungen mit den in den Filialen New York, London und Hongkong beschäftigten Mitarbeitern.

London and Hong Kong shall remain with the Transferring Company.

6.3.3 Bei Änderungen nach dem Spaltungstichtag, auf welchen Tag hin Anlage 11 erstellt wurde, gilt für die Zuordnung folgendes:

a) für Neueintritte und Wiedereintritte von Mitarbeitern, insbesondere auch bei Rückkehr nach Beendigung einer Dienstüberlassung, ist die direkte Zuordnung der Organisationseinheit, in welcher der Mitarbeiter fortan tätig ist, entscheidend: Handelt es sich dabei um eine Organisationseinheit mit der Kennung 0196, gehört das Arbeitsverhältnis und die sonstige dienstrechtliche Rechtsbeziehung zum Restvermögen und verbleibt damit bei der übertragenden Gesellschaft, bei einer anderen Kennung ist Zugehörigkeit zum Teilbetrieb Österreich gegeben;

b) für Mitarbeiter, die von der Erste Bank an ein anderes Beschäftiger-Unternehmen in der Erste Bank-Gruppe dienstüberlassen sind, verbleibt bei einem Wechsel zu einem anderen Beschäftiger-Unternehmen der Erste Bank-Gruppe die ursprüngliche Zuordnung erhalten.

6.3.3 In case of changes after the effective day (pursuant to clause 5.1) of the de-merger, with respect to which Annex 11 has been made, the following assignment rules shall apply:

a) for newly entering and re-entering Employees, in particular when returning after completion of an external assignment, the direct assignment of the organisational unit in which such Employee will work henceforward shall be decisive: if such organisational unit is identified by the number 0196, the corresponding employment contract and other labour law related relationships belong to the residual assets and liabilities and thus remain with the Transferring Company, in case of a different identification number such relationship is deemed to belong to the Business Division Austria;

b) For Employees that have been leased from Erste Bank to another employer within the Erste Bank group remain, in case of a transfer to another employer within the Erste Bank group their original assignment is not affected.

6.3.4 Alle dienstrechtlichen Rechts- und Vertragsverhältnisse der Erste Bank mit jenen Mitgliedern des Vorstandes der Erste Bank, die bei der übernehmenden Gesellschaft die Funktion eines Mitgliedes des Vorstandes wahrnehmen, sind zum Teilbetrieb Österreich gehörig und gehen auf die übernehmende Gesellschaft über.

6.3.4 All labour law related legal and contractual relationships of Erste Bank with those members of the management board of Erste Bank who assume the position of a member of the management board of the Acquiring Company belong to the Business Division Austria and transfer to the Acquiring Company.

6.3.5 Die übernehmende Gesellschaft tritt in sämtliche bestehende Arbeitsverhältnisse mit den von der Übertragung erfassten Arbeitnehmern der übertragenden Gesellschaft gemäß den Bestimmungen des Arbeitsvertragsrechts-Anpassungsgesetzes ("AVRAG") ein.

6.3.5 The Acquiring Company succeeds in all existing employment contracts with Employees of the Transferring Company who are subject to the transfer in accordance with the Provisions of the Austrian Labour Contracts Adjustments Act (*Arbeitsvertragsrechts-Anpassungsgesetzes, "AVRAG"*)

6.3.6 Die übernehmende Gesellschaft tritt hinsichtlich der von der Übertragung erfassten Arbeitnehmer an Stelle der Erste Bank in die folgenden Verträge ein: den Pensionskassenvertrag mit der VBV-Pensionskasse AG, den Beitrittsvertrag mit

6.3.6 The Acquiring Company succeeds Erste Bank with respect to the transferred Employees as far as the following contracts are concerned: the pension fund contract with VBV-Pensionskasse AG, the accession contract with VBV

der VBV Mitarbeitervorsorgekasse AG, den Gruppenversicherungsvertrag sowie die Auslagerungsvereinbarung von kollektivvertraglichen bzw. betriebsvereinbarungsgemäßen Pensionsrisiken mit der Sparkassen Versicherung AG, jeweils in der gültigen Fassung. Die übernehmende Gesellschaft übernimmt die Rechte und Pflichten aus diesen Vertragsbeziehungen im Wege der Gesamtrechtsnachfolge.

Mitarbeitervorsorgekasse AG, the group insurance contract as well as the outsourcing agreement regarding collective bargaining agreement and ship floor agreement pension risks with Sparkassen Versicherung AG, each as amended. The Acquiring Company assumes the rights and obligations arising from these contractual relationships by way of universal succession.

6.3.7 Die Personalrückstellungen für die von der Übertragung erfassten Arbeitnehmer gehen von der übertragenden Gesellschaft auf die übernehmende Gesellschaft im Zuge dieser Spaltung über.

6.3.7 The personnel provisions for Employees included in the transfer move in the course of this de-merger from the Transferring Company to the Acquiring Company.

6.4 Der Teilbetrieb Österreich umfasst auch die im Zeitraum vom 1. Jänner 2008 bis zur Wirksamkeit der Spaltung im Zeitpunkt der Eintragung in das österreichische Firmenbuch eintretenden Bestandsveränderungen an Vermögensgegenständen, die aus den zum Rechnungswesen gehörenden sonstigen Aufzeichnungen, wie dem Anlagenverzeichnis, ersichtlich sind oder die sich aus den in diesem Vertrag festgelegten Zuordnungsregeln, wie insbesondere aus der kostenstellenbezogenen Zuordnung zu Organisationseinheiten des Teilbetriebs Österreich ergeben. Gleiches gilt für Änderungen im Mitarbeiterstand in diesem Zeitraum.

6.4 The Business Division Austria also includes changes to the Assets in the period from 1 January 2008 until the effectiveness of the de-merger upon registration in the Austrian companies register which are evidenced in the accounting records, such as the list of fixed assets, or which result from the assignment provisions of this Agreement, in particular pursuant to the cost item-related assignment to the organisational units of the Business Division Austria. The same applies to changes in personnel within such time period.

6.5 Von der übertragenden Gesellschaft wird ausschließlich der in Punkt 6.2 bis 6.4 näher bezeichnete Übertragungsgegenstand auf die übernehmende Gesellschaft übertragen. Alle anderen Vermögensgegenstände der übertragenden Gesellschaft gehören zum Restvermögen und verbleiben bei der übertragenden Gesellschaft.

6.5 The transfer from the Transferring Company to the Acquiring Company comprises only those objects of transferal which are outlined in detail in Clauses 6.2. to 6.4. All other Assets of the Transferring Company belong to the residual assets and liabilities and remain with the Transferring Company.

6.6 Soweit ein Vermögensgegenstand aufgrund der vorstehenden Regelungen weder der übertragenden Gesellschaft noch der übernehmenden Gesellschaft zugeordnet werden kann, insbesondere weil dessen Existenz den Vertragspartnern nicht bewusst war, wird dieser so zugeordnet, dass er bei stärkerem wirtschaftlichen Bezug zu den in Punkt 6.1.2 angeführten Geschäftstätigkeiten als von der Abspaltung erfasst und der übernehmenden Gesellschaft übertragen gilt und bei stärkerem wirtschaftlichem Bezug zu den in Punkt

6.6 Insofar an Asset can on the basis of the foregoing provisions be assigned neither to the Transferring Company nor to the Acquiring Company, in particular because its existence was not known to the Parties, such Asset shall be assigned in such way that if there is a stronger economic relationship with the business activities outlined in Clause 6.1.2 it shall be included into the de-merger and transferred to the Acquiring Company, and if there is a stronger economic relationship with the business

6.1.3. angeführten Geschäftstätigkeiten als zum Restvermögen gehörig und damit bei der übertragenden Gesellschaft verbleibend gilt.

activities outlined in Clause 6.1.3 it shall belong to the residual assets and liabilities and therefore remain with the Transferring Company.

6.7 Als Regelung über die Zuordnung von Vermögen, das sonst aufgrund dieses Spaltungs- und Übernahmungsvertrages keiner der an der Spaltung beteiligten Gesellschaften zugeordnet werden kann, wird festgelegt, dass dieses bei der übertragenden Gesellschaft verbleibt.

6.7 The rule for the assignment of assets which, according to this De-Merger Agreement, cannot be assigned to any company participating in the de-merger, shall be that such assets remain with the Transferring Company.

6.8 Die Vertragspartner werden alle Rechtshandlungen und Maßnahmen durchführen, die zur ordnungsgemäßen Übertragung der zum Teilbetrieb Österreich gehörenden Vermögensgegenstände notwendig oder zweckmäßig sind.

6.8 The Parties shall take all legal acts and measures that are necessary or practicable to duly transfer the Assets belonging to the Business Division Austria.

6.9 Soweit die Übertragung einzelner zum Teilbetrieb Österreich gehöriger Vermögensgegenstände im Außenverhältnis nicht möglich ist oder wirtschaftlich unzuweckmäßig sein sollte, verpflichtet sich die übertragende Gesellschaft, derartige Vermögensgegenstände über Wunsch der übernehmenden Gesellschaft als Treuhänder der übernehmenden Gesellschaft im eigenen Namen, jedoch auf Rechnung und Gefahr der übernehmenden Gesellschaft weiterhin zu halten.

6.9 Insofar as the transfer of individual Assets belonging to the Business Division Austria cannot be made with effect vis-à-vis a third party or is not economically practicable, the Transferring Company undertakes to continue the holding of such Assets upon request of the Acquiring Company as trustee of the Acquiring Company in its own name but for the account and risk of the Acquiring Company.

7. Schlussbilanz, Spaltungsbilanz und Übertragungsbilanz (§ 2 Abs 1 Z 12 SpaltG)

7. Final Balance Sheet, De-Merger Balance Sheet and Transfer Balance Sheet (sec 2 para 1 No 12 SpaltG)

7.1 Die Abspaltung zur Aufnahme findet auf der Grundlage der Schlussbilanz (Anlage 1), statt.

7.1 The de-merger takes place on the basis of the Final Balance Sheet (Annex 1).

7.2 Das der übertragenden Gesellschaft verbleibende Vermögen ist aus der Spaltungsbilanz (Anlage 2) ersichtlich.

7.2 The assets and liabilities of the Transferring Company after the effectiveness of the de-merger are included in the De-Merger Balance Sheet (Annex 2).

7.3 Der an die übernehmende Gesellschaft übertragene Teilbetrieb Österreich ist aus der Übertragungsbilanz (Anlage 3) ersichtlich. Die übernehmende Gesellschaft führt die sich aus der Schlussbilanz der übertragenden Gesellschaft ergebenden Buchwerte des übertragenen Teilbetriebs Österreich entsprechend der Übertragungsbilanz (Anlage 3) nach § 202 Abs 2 Z 1 UGB fort.

7.3 The Business Division Austria as transferred to the Acquiring Company is included in the Transfer Balance Sheet (Annex 3). The Acquiring Company continues the book values of the transferred Business Division Austria as resulting from the Final Balance Sheet of the Transferring Company according to the Transfer Balance Sheet pursuant to sec 202 para 2 No 1 of the Austrian Com-

panies Act (*Unternehmensgesetzbuch*, "UGB").

8. Umgründungssteuergesetz und positiver Verkehrswert

8.1 Die gegenständliche Abspaltung zur Aufnahme erfolgt unter Inanspruchnahme der Begünstigungen des Art VI UmgrStG.

8.2 Der in Punkt 6 näher bezeichnete Teilbetrieb Österreich stellt Vermögen im Sinne des § 32 Abs 2 iVm § 12 Abs 2 Z 1 UmgrStG dar. Der Teilbetrieb Österreich in seiner Gesamtheit ist seit mehr als zwei Jahren Vermögen der Erste Bank.

8.3 Die steuerlichen Buchwerte für das im Zuge der Spaltung übertragene Vermögen werden fortgeführt.

8.4 Es besteht eine Befreiung von der Gesellschaftsteuer nach § 38 Abs 5 UmgrStG und § 6 Abs 1 Z 3 KVG.

8.5 Der Aufstellung eines Umgründungsplanes gemäß § 39 UmgrStG bedurfte es nicht.

8.6 Der Vorstand der übertragenden Gesellschaft und der Vorstand der übernehmenden Gesellschaft stellen fest, dass das übertragene Vermögen (Teilbetrieb Österreich) zum Spaltungsstichtag sowie am heutigen Tag einen positiven Verkehrswert besitzt.

9. Wechselseitige Schad- und Klagloshaltung

9.1 Die übertragende Gesellschaft verpflichtet sich, die übernehmende Gesellschaft bei einer Inanspruchnahme aus Verbindlichkeiten und sonstigen Pflichten, die dem Restvermögen zuzuordnen sind, schad- und klaglos zu halten.

9.2 Die übernehmende Gesellschaft verpflichtet sich, die übertragende Gesellschaft bei einer Inanspruchnahme aus Verbindlich-

8. Tax Restructuring Act and positive market value

8.1 The present de-merger by transfer takes place with recourse to the benefits of article VI UmgrStG.

8.2 The Business Division Austria as described in more detail in Clause 6 constitutes assets and liabilities in the sense of sec 32 para 2 in connection with sec 12 para 2 No 1 UmgrStG. The Business Division Austria in its entirety has belonged to Erste Bank for more than two years.

8.3 The fiscal book values of the Assets transferred in the de-merger will be continued.

8.4 The exemption from Capital contribution tax pursuant to sec 38 para 5 UmgrStG and sec 6 para 1 No 3 of the Austrian Tax Act on Capital Transactions (*Kapitalverkehrsteuergesetz*, "KVG") will apply.

8.5 A restructuring plan in accordance with sec 39 UmgrStG was not necessary.

8.6 The management board of the Transferring Company and the management board of the Acquiring Company declare that the transferred Assets (Business Division Austria) have a positive market value on the effective day (pursuant to clause 5.1) of the de-merger as well as on the present day.

9. Mutual indemnification and hold-harmless clause

9.1 In case of claims arising from liabilities and other obligations pertaining to the residual assets, the Transferring Company undertakes to fully indemnify and hold harmless the Acquiring Company.

9.2 In case of claims arising from liabilities and other obligations pertaining to the Business Division Austria, the Acquiring

keiten und sonstigen Pflichten, die dem Teilbetrieb Österreich zuzuordnen sind, schad- und klaglos zu halten.

Company undertakes to fully indemnify and hold harmless the Transferring Company.

9.3 Der Vorstand der übertragenden Gesellschaft und der Vorstand der übernehmenden Gesellschaft halten fest, dass diese wechselseitige Schad- und Klagloshaltung nur das Innenverhältnis regelt – die Wirkungen des § 15 SpaltG bleiben davon unberührt.

9.3 The management board of the Transferring Company and the management board of the Acquiring Company declare that this mutual indemnification and hold-harmless clause applies only between the Parties' internally – the consequences of sec 15 SpaltG remain unaffected.

10. Sonstige spaltungsrechtliche und steuerrechtliche Aspekte

10. Other de-merger related and tax related legal aspects

10.1 Weder den Aktionären der übertragenden Gesellschaft noch dem Aktionär der übernehmenden Gesellschaft oder anderen Personen werden Rechte gemäß § 2 Abs 1 Z 8 SpaltG gewährt. Maßnahmen gemäß § 2 Abs 1 Z 8 SpaltG sind nicht vorgesehen und werden nicht gesetzt.

10.1 Rights within the meaning of sec 2 para 1 No 8 SpaltG are granted neither to the shareholders of the Transferring Company nor to the shareholder of the Acquiring Company nor to any other persons. Actions in the meaning of sec 2 para 1 No 8 SpaltG are not intended and will not be made.

10.2 Es wird weder einem Mitglied des Vorstands oder des Aufsichtsrats der übertragenden Gesellschaft noch einem Mitglied des Vorstands oder des Aufsichtsrats der übernehmenden Gesellschaft ein besonderer Vorteil iS des § 2 Abs 1 Z 9 SpaltG gewährt.

10.2 Special advantages within the meaning of sec 2 para 1 No 9 SpaltG are granted neither to a member of the management board or member of the supervisory board of the Transferring Company nor to a member of the management board or member of the supervisory board of the Acquiring Company.

10.3 Das dem Spaltungsprüfer zu gewährendes angemessene Honorar für die Durchführung der Spaltungsprüfung ist kein besonderer Vorteil iS des § 2 Abs 1 Z 9 SpaltG. Gleiches gilt für den Abschlussprüfer und den Restvermögensprüfer und für allfällige sonstige Prüfer.

10.3 The adequate fees to be paid to the de-merger auditor for the de-merger audit do not constitute a special advantage within the meaning of sec 2 para 1 No 9 SpaltG. The same applies to the regular auditor and the auditor of the residual property and to other auditors.

10.4 Das Angebot einer Barabfindung gemäß §§ 17 iVm 11 iVm 2 Abs 1 Z 13 SpaltG kann entfallen, da es sich bei der gegenständlichen Spaltung zur Aufnahme weder um eine nicht verhältnismäßige Spaltung gemäß § 8 Abs 3 SpaltG noch um eine rechtsformübergreifende Spaltung zur Aufnahme gemäß § 11 SpaltG handelt.

10.4 An offer for cash compensation pursuant to sec 17 in connection with sec 2 para 1 No 13 SpaltG may be omitted, since this de-merger by transfer constitutes neither a non-proportionate de-merger according to sec 8 para 3 SpaltG nor a de-merger by transfer between different legal forms pursuant to sec 11 SpaltG.

10.5 Zum Teilbetrieb Österreich gehören keine Grundstücke im Sinne des § 2 GrEStG, sodass Grunderwerbsteuer

10.5. The Business Division Austria does not include any property within the meaning of sec 2 of the Austrian Property

nicht anfällt. Auch kommt es durch die Übertragung einer Beteiligung auf die übernehmende Gesellschaft zu keinem Vorgang, der Grunderwerbsteuer gemäß § 1 Abs 3 Z 1 GrEStG auslöst.

Acquisition Tax Act (*Grunderwerbsteuergesetz*, "GrEStG"), so that no such property acquisition tax does accrue. Further, no transfer of a holding to the Acquiring Company does trigger property acquisition tax becoming due pursuant to sec 1 para 3 No 1 GrEStG.

11. Salvatorische Klausel, Kosten, Rechtswahl, Schiedsklausel

11.1 Sollte eine Bestimmung dieses Vertrages unwirksam oder undurchsetzbar sein, berührt dies nicht die Gültigkeit oder Rechtswirksamkeit der übrigen Vertragsbestimmungen. In einem solchen Fall tritt an die Stelle der unwirksamen oder undurchsetzbaren Bestimmung eine solche wirksame und durchsetzbare Bestimmung, die dem wirtschaftlichen Gehalt der unwirksamen oder undurchsetzbaren Bestimmung in Hinblick auf die Anforderungen des SpaltG und des UmgrStG am nächsten kommt.

11.2 Die mit der Errichtung dieses Spaltungs- und Übernahmungsvertrags in Notariatsaktsform verbundenen Kosten, insbesondere die Honorare des Notars und der sonstigen Berater, sowie die mit der Durchführung der Spaltung verbundenen Gebühren und Abgaben trägt die übertragende Gesellschaft.

11.3 Dieser Vertrag unterliegt österreichischem Recht. Alle Streitigkeiten zwischen den Vertragspartnern, die sich aus diesem Vertrag ergeben, werden vom ständigen Schiedsgericht der Wirtschaftskammer Wien nach der für dasselbe geltenden Schiedsgerichtsordnung von drei Schiedsrichtern endgültig entschieden.

12. Aufschiebende Bedingungen

12.1 Die Wirksamkeit dieses Spaltungs- und Übernahmungsvertrags ist aufschiebend bedingt durch

12.1.1 die Genehmigung durch die Hauptversammlung der Erste Bank als übertragende Gesellschaft,

12.1.2 die Genehmigung durch die Hauptver-

11. Severability clause, costs, choice of law, arbitration clause

11.1 If any provision of this Agreement is invalid or unenforceable, the remaining provisions shall stay valid and enforceable. In such case, the invalid or unenforceable provision shall be replaced by such valid and enforceable provision which best meets the economic intent of the invalid or unenforceable provision with respect to the requirements of the SpaltG und the UmgrStG.

11.2 The costs incurred with the execution of this De-Merger and Acquisition Agreement by way of a notarial deed, in particular the fees of the notary and other advisors, as well as the fees incurred with the implementation of the de-merger shall be borne by the Transferring Company.

11.3 This Agreement shall be governed by Austrian law. All disputes between the Parties arising out of this Agreement shall be finally resolved by the permanent arbitration tribunal of the Viennese Chamber of Commerce ("Wirtschaftskammer") in accordance with its corresponding rules of arbitration by three arbitrators.

12. Conditions precedent

12.1 The effectiveness of this De-Merger and Acquisition Agreement is conditional upon:

12.1.1 the consent of the shareholders' meeting of Erste Bank as Transferring Company,

12.1.2 the consent of the shareholders'

sammlung der Dritte Wiener als übernehmende Gesellschaft, und

meeting of Dritte Wiener as Acquiring Company, and

12.1.3 die Bewilligung der Finanzmarktaufsichtsbehörde zur Spaltung der Erste Bank gemäß § 21 Abs 1 Z 6 BWG.

12.1.3 the approval of the de-merger of Erste Bank by the Financial Market Authority according to sec 21 para 1 No 6 of the BWG.

13. Sprache

Der deutsche Text dieses Spaltungs- und Übernahmevertrags ist bindend. Die englische Übersetzung dient nur zu Informationszwecken.

13. Language

The German text of this De-Merger and Acquisition Agreement shall be binding. The English translation is for information purposes only.

Verzeichnis der Anlagen:

Diese bilden einen Bestandteil dieses Vertrages.

List of Annexes:

The Annexes are integral parts of this Agreement.

Anlage 1	"Schlussbilanz"		Annex 1	"Final Balance Sheet"
Anlage 2	"Spaltungsbilanz"		Annex 2	"De-Merger Balance Sheet"
Anlage 3	"Übertragungsbilanz"		Annex 3	"Transfer Balance Sheet"
Anlage 4	"Satzung neu der übertragenden Gesellschaft"		Annex 4	"Amended articles of association of the Transferring Company"
Anlage 5	"Satzung neu der übernehmenden Gesellschaft"		Annex 5	"Amended articles of association of the Acquiring Company"
Anlage 6	"Öffentlich-rechtliche Bewilligungen" gemäß Punkt 6.2.2		Annex 6	"Public Law Licenses" pursuant to Clause 6.2.2
Anlage 7	"Kontonummern" gemäß Punkt 6.2.3		Annex 7	"Bank Account Numbers" pursuant to Clause 6.2.3
Anlage 8	"Anlagevermögen" gemäß Punkt 6.2.6		Annex 8	"Fixed assets" pursuant to Clause 6.2.6
Anlage 9	"Bestandsverträge" gemäß Punkt 6.2.7		Annex 9	"Lease contracts" pursuant to Clause 6.2.7
Anlage 10	"Beteiligungen" gemäß Punkt 6.2.8		Annex 10	"Holdings" pursuant to Clause 6.2.8
Anlage 11	"Mitarbeiter" gemäß Punkt 6.3.2		Annex 11	"Employees" pursuant to Clause 6.3.2

Wien, am 26. März 2008

Vienna, 26 March 2008

als kollektivvertretungsbefugte
Vorstandsmitglieder der
Erste Bank der oesterreichischen
Sparkassen AG

as collectively authorised
management board member of
Erste Bank der oesterreichischen
Sparkassen AG

als kollektivvertretungsbefugte
Vorstandsmitglieder der
Dritte Wiener Vereins-Sparcasse AG

as collectively authorised
management board member of
Dritte Wiener Vereins-Sparcasse AG

Annex II

Final Balance Sheet of Erste Bank der
oesterreichischen Sparkassen AG
as of 31.12.2007

Final Balance Sheet as of 31 December 2007

ERSTE BANK der oesterreichischen Sparkassen AG

Assets

	EUR	EUR
1. Cash in hand and balances with central banks		492.937.393,99
2. Treasury bills and other bills eligible for refinancing at central banks		
a) treasury bills and similar securities	5.107.967.298,37	
b) other bills eligible for refinancing at central banks	0,00	5.107.967.298,37
3. Loans and advances to credit institutions		
a) repayable on demand	1.463.149.416,24	
b) other loans and advances	29.246.984.258,90	30.710.133.675,14
4. Loans and advances to customers		29.827.748.947,16
5. Bonds and other fixed-income securities		
a) issued by public borrowers	700.578.967,97	
b) issued by other borrowers	9.106.614.336,16	9.807.193.304,13
of which: own bonds	107.656.403,55	
6. Shares and other variable-yield securities		1.600.474.941,07
7. Equity interests		564.301.399,59
of which: in credit institutions	450.650.710,04	
8. Shares in group companies		8.773.856.822,82
of which: in credit institutions	7.728.784.190,05	
9. Intangible fixed assets		62.062.563,41
10. Tangible fixed assets		77.147.629,80
of which: land and buildings used by the credit institution for its own business operations	35.875.555,13	
11. Own shares and shares in a controlling company		42.798.437,00
of which: par value	1.764.884,00	
12. Other assets		4.294.287.701,82
13. Subscribed capital called-up, but not yet paid-up		0,00
14. Prepaid expenses		254.332.792,91
Total Assets		91.615.242.907,21

Final Balance Sheet as of 31 December 2007

ERSTE BANK der oesterreichischen Sparkassen AG

Assets

EUR	EUR
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Items below the Balance Sheet

1. Foreign assets

56.454.959.178,51

Final Balance Sheet as of 31 December 2007

ERSTE BANK der oesterreichischen Sparkassen AG

Liabilities

	EUR	EUR
1. Amounts owed to credit institutions		
a) repayable on demand	984.732.696,91	
b) with agreed maturity dates or periods of notice	32.811.692.092,15	33.796.424.789,06
2. Amounts owed to customers		
a) savings deposits	7.976.841.606,41	
of which:		
aa) repayable on demand	1.949.925.022,58	
bb) with agreed maturity dates or periods of notice	6.026.916.583,83	
b) other liabilities:	13.627.548.195,58	
of which:		
aa) repayable on demand	5.311.416.726,79	
bb) with agreed maturity dates or periods of notice	8.316.131.468,79	21.604.389.801,99
3. Debts evidenced by certificates		
a) bonds issued	14.180.703.913,15	
b) other debts evidenced by certificates	5.983.435.416,54	20.164.139.329,69
4. Other liabilities		3.528.609.965,72
5. Deferred income		165.973.363,46
6. Provisions		
a) provisions for severance payments	0,00	
b) pension provisions	360.729.443,00	
c) provisions for taxes	5.325.528,51	
d) other	169.952.027,46	536.006.998,97
6.A Special fund for general banking risks		0,00
7. Subordinated liabilities		1.929.440.710,03
8. Supplementary capital		2.522.268.399,63
9. Subscribed capital		632.577.890,00
10. Capital reserves		
a) subject to legal restrictions	4.630.879.000,00	
b) other	0,00	
c) for own shares and shares in a controlling company	0,00	4.630.879.000,00
11. Revenue reserves		
a) statutory reserve	34.156.000,00	
b) reserves provided for by the bye-laws	0,00	
c) other reserves	923.091.000,00	
d) for own shares and shares in a controlling company	42.799.000,00	1.000.046.000,00
Carry forward		90.510.756.248,55

Final Balance Sheet as of 31 December 2007

ERSTE BANK der oesterreichischen Sparkassen AG

Liabilities

	EUR	EUR
Carry forward		90.510.756.248,55
12. Reserve pursuant to § 23 (6) of the Austrian Banking Act (BWG)		854.000.000,00
13. Retained earnings		237.356.658,66
14. Untaxed reserves		
a) valuation reserve resulting from special depreciation	13.130.000,00	
b) other untaxed reserves	0,00	13.130.000,00
of which:		
aa) investment reserve pursuant to § 9 of the Austrian Income Tax Act	0,00	
bb) investment allowance pursuant to § 10 of the Austrian Income Tax Act	0,00	
cc) rent reserve pursuant to § 11 of the Austrian Income Tax Act	0,00	
dd) reserve transferred pursuant to § 12 of the Austrian Income Tax Act	0,00	
Total Liabilities and Equity		91.615.242.907,21

Items shown below the Balance Sheet

1. Contingent liabilities		12.340.967.814,68
of which:		
a) acceptances and endorsements	0,00	
b) guarantees and assets pledged as collateral security	5.862.146.406,72	
2. Commitments		7.774.832.903,21
of which: commitments arising from	0,00	
3. Liabilities arising from transactions on a trust basis		245.694.023,03
4. Total net capital pursuant to § 23 in conjunction with § 29 of the BWG		10.072.490.339,32
of which: capital pursuant to § 23 (14) 7 of the BWG	183.820.746,21	
5. Capital required pursuant to § 22 (1) of the BWG		3.611.470.332,14
of which: capital required pursuant to § 22 (1) 1 and 4 of the BWG	2.966.246.163,86	
6. Foreign liabilities		36.126.869.756,36

Annex III

Transfer Balance Sheet as of 31.12.2007
("Business Division Austria")

**Transfer Balance Sheet as of 31 December 2007
("Business Division Austria")**

Assets

	EUR	EUR
1. Cash in hand and balances with central banks		218.738.451,72
2. Treasury bills and other bills eligible for refinancing at central banks		
a) treasury bills and similar securities	2.596.384.426,69	
b) other bills eligible for refinancing at central banks	0,00	2.596.384.426,69
3. Loans and advances to credit institutions		
a) repayable on demand	303.575.972,96	
b) other loans and advances	326.864.834,18	630.440.807,14
4. Loans and advances to customers		16.387.181.819,52
5. Bonds and other fixed-income securities		
a) issued by public borrowers	0,00	
b) issued by other borrowers	809.260.432,13	809.260.432,13
of which: own bonds	0,00	
6. Shares and other variable-yield securities		69.122.946,05
7. Equity interests		407.834.537,17
of which: in credit institutions	383.187.505,22	
8. Shares in group companies		147.826.779,18
of which: in credit institutions	90.803.400,63	
9. Intangible fixed assets		28.338.839,30
10. Tangible fixed assets		29.242.413,11
of which: land and buildings used by the credit institution for its own business operations	8.537.368,00	
11. Own shares and shares in a controlling company		0,00
of which: par value	0,00	
12. Other assets		383.293.003,10
13. Subscribed capital called-up, but not yet paid-up		0,00
14. Prepaid expenses		10.294.693,90
Total Assets		21.717.959.149,01

**Transfer Balance Sheet as of 31 December 2007
("Business Division Austria")**

Assets

EUR	EUR
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Items below the Balance Sheet

	6.785.203.418,36
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1. Foreign assets

**Transfer Balance Sheet as of 31 December 2007
("Business Division Austria")**

Liabilities

	EUR	EUR
1. Amounts owed to credit institutions		
a) repayable on demand	5.255.958.912,85	
b) with agreed maturity dates or periods of notice	1.751.603.577,15	7.007.562.490,00
2. Amounts owed to customers		
a) savings deposits	7.976.841.606,41	
of which:		
aa) repayable on demand	1.949.925.022,58	
bb) with agreed maturity dates or periods of notice	6.026.916.583,83	
b) other liabilities:	6.143.004.494,85	
of which:		
aa) repayable on demand	4.275.665.263,81	
bb) with agreed maturity dates or periods of notice	1.867.339.231,04	14.119.846.101,26
3. Debts evidenced by certificates		
a) bonds issued	0,00	
b) other debts evidenced by certificates	0,00	0,00
4. Other liabilities		140.237.967,52
5. Deferred income		76.454.613,81
6. Provisions		
a) provisions for severance payments	0,00	
b) pension provisions	0,00	
c) provisions for taxes	0,00	
d) other	113.857.976,42	113.857.976,42
6.A Special fund for general banking risks		0,00
7. Subordinated liabilities		0,00
8. Supplementary capital		0,00
9. Subscribed capital		0,00
10. Capital reserves		
a) subject to legal restrictions	140.000.000,00	
b) other	0,00	
c) for own shares and shares in a controlling company	0,00	140.000.000,00
11. Revenue reserves		
a) statutory reserve	0,00	
b) reserves provided for by the bye-laws	0,00	
c) other reserves	0,00	
d) for own shares and shares in a controlling company	0,00	0,00
Carry forward		21.597.959.149,01

**Transfer Balance Sheet as of 31 December 2007
("Business Division Austria")**

Liabilities

	EUR	EUR
Carry forward		21.597.959.149,01
12. Reserve pursuant to § 23 (6) of the Austrian Banking Act (BWG)		120.000.000,00
13. Retained earnings		0,00
14. Untaxed reserves		
a) valuation reserve resulting from special depreciation	0,00	
b) other untaxed reserves	0,00	0,00
of which:		
aa) investment reserve pursuant to § 9 of the Austrian Income Tax Act	0,00	
bb) investment allowance pursuant to § 10 of the Austrian Income Tax Act	0,00	
cc) rent reserve pursuant to § 11 of the Austrian Income Tax Act	0,00	
dd) reserve transferred pursuant to § 12 of the Austrian Income Tax Act	0,00	
Total Liabilities and Equity		21.717.959.149,01

Items shown below the Balance Sheet

1. Contingent liabilities		3.260.857.489,07
of which:		
a) acceptances and endorsements	0,00	
b) guarantees and assets pledged as collateral security	3.260.857.489,07	
2. Commitments	0,00	5.003.565.731,30
of which: commitments arising from		
3. Liabilities arising from transactions on a trust basis		242.160.768,03
4. Total net capital pursuant to § 23 in conjunction with § 29 of the BWG*)	0,00	0,00
of which: capital pursuant to § 23 (14) 7 of the BWG		
5. Capital required pursuant to § 22 (1) of the BWG*)	0,00	0,00
of which: capital required pursuant to § 22 (1) 1 and 4 of the BWG		
6. Foreign liabilities		672.418.340,71

*) calculation excluded in accordance with § 21 (1) 6 together with § 21 (2) of the BWG

Annex IV

De-Merger Balance Sheet as of 31.12.2007
of Erste Bank der oesterreichischen
Sparkassen AG

De-Merger Balance Sheet as of 31 Dezember 2007
ERSTE BANK der oesterreichischen Sparkassen AG

Assets

	EUR	EUR
1. Cash in hand and balances with central banks		274.198.942,27
2. Treasury bills and other bills eligible for refinancing at central banks		
a) treasury bills and similar securities	2.511.582.871,68	
b) other bills eligible for refinancing at central banks	0,00	2.511.582.871,68
3. Loans and advances to credit institutions		
a) repayable on demand	6.343.102.949,13	
b) other loans and advances	28.920.119.424,72	35.263.222.373,85
4. Loans and advances to customers		13.440.567.127,64
5. Bonds and other fixed-income securities		
a) issued by public borrowers	700.578.967,97	
b) issued by other borrowers of which: own bonds	8.297.353.904,03	8.997.932.872,00
	107.656.403,55	
6. Shares and other variable-yield securities		1.531.351.995,02
7. Equity interests		156.466.862,42
of which: in credit institutions	67.463.204,82	
8. Shares in group companies		8.886.030.043,64
of which: in credit institutions	7.897.980.789,42	
9. Intangible fixed assets		33.723.724,11
10. Tangible fixed assets		47.905.216,69
of which: land and buildings used by the credit institution for its own business operations	27.338.187,13	
11. Own shares and shares in a controlling company		42.798.437,00
of which: par value	1.764.884,00	
12. Other assets		3.910.994.698,72
13. Subscribed capital called-up, but not yet paid-up		0,00
14. Prepaid expenses		244.038.099,01
Total Assets		75.340.813.264,05

**De-Merger Balance Sheet as of 31 Dezember 2007
ERSTE BANK der oesterreichischen Sparkassen AG**

Assets

EUR	EUR
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Items below the Balance Sheet

1. Foreign assets

	56.454.959.178,51
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De-Merger Balance Sheet as of 31 Dezember 2007
ERSTE BANK der oesterreichischen Sparkassen AG

Liabilities

	EUR	EUR
1. Amounts owed to credit institutions		
a) repayable on demand	912.303.289,91	
b) with agreed maturity dates or periods of notice	31.060.088.515,00	31.972.391.804,91
2. Amounts owed to customers		
a) savings deposits	0,00	
of which:		
aa) repayable on demand	0,00	
bb) with agreed maturity dates or periods of notice	0,00	
b) other liabilities:	7.484.543.700,73	
of which:		
aa) repayable on demand	1.035.751.462,98	
bb) with agreed maturity dates or periods of notice	6.448.792.237,75	7.484.543.700,73
3. Debts evidenced by certificates		
a) bonds issued	14.180.703.913,15	
b) other debts evidenced by certificates	5.983.435.416,54	20.164.139.329,69
4. Other liabilities		3.388.371.998,20
5. Deferred income		89.518.749,65
6. Provisions		
a) provisions for severance payments	0,00	
b) pension provisions	360.729.443,00	
c) provisions for taxes	5.325.528,51	
d) other	56.094.051,04	422.149.022,55
6.A Special fund for general banking risks		0,00
7. Subordinated liabilities		1.929.440.710,03
8. Supplementary capital		2.522.268.399,63
9. Subscribed capital		632.577.890,00
10. Capital reserves		
a) subject to legal restrictions	4.750.879.000,00	
b) other	0,00	
c) for own shares and shares in a controlling company	0,00	4.750.879.000,00
11. Revenue reserves		
a) statutory reserve	34.156.000,00	
b) reserves provided for by the bye-laws	0,00	
c) other reserves	923.091.000,00	
d) for own shares and shares in a controlling company	42.799.000,00	1.000.046.000,00
Carry forward		74.356.326.605,39

De-Merger Balance Sheet as of 31 Dezember 2007
ERSTE BANK der oesterreichischen Sparkassen AG

Liabilities

	EUR	EUR
Carry forward		74.356.326.605,39
12. Reserve pursuant to § 23 (6) of the Austrian Banking Act (BWG)		734.000.000,00
13. Retained earnings		237.356.658,66
14. Untaxed reserves		
a) valuation reserve resulting from special depreciation	13.130.000,00	
b) other untaxed reserves	0,00	13.130.000,00
of which:	0,00	
aa) investment reserve pursuant to § 9 of the Austrian Income Tax Act	0,00	
bb) investment allowance pursuant to § 10 of the Austrian Income Tax Act	0,00	
cc) rent reserve pursuant to § 11 of the Austrian Income Tax Act	0,00	
dd) reserve transferred pursuant to § 12 of the Austrian Income Tax Act		
Total Liabilities and Equity		75.340.813.264,05

Items shown below the Balance Sheet

1. Contingent liabilities		9.080.110.325,61
of which:		
a) acceptances and endorsements	0,00	
b) guarantees and assets pledged as collateral security	2.601.288.917,65	
2. Commitments	0,00	2.771.267.171,91
of which: commitments arising from		
3. Liabilities arising from transactions on a trust basis		3.533.255,00
4. Total net capital pursuant to § 23 in conjunction with § 29 of the BWG	183.820.746,21	10.057.835.429,63
of which: capital pursuant to § 23 (14) 7 of the BWG		
5. Capital required pursuant to § 22 (1) of the BWG		2.515.924.577,84
of which: capital required pursuant to § 22 (1) 1 and 4 of the BWG	1.870.700.409,56	
6. Foreign liabilities		35.454.451.415,65

Annex V

Joint report of the Management Board of
Erste Bank der oesterreichischen
Sparkassen AG and the Management Board
of Dritte Wiener Vereins-Sparcasse AG acc
§ 4 Sec 1 SpaltG and § 17 No 5 SpaltG in
connection with § 220a AktG
(draft)

JOINT REPORT

OF THE MANAGEMENT BOARD

of

ERSTE BANK DER OESTERREICHISCHEN SPARKASSEN AG

(„Erste Bank“ or „Transferring Company“)

and

THE MANAGEMENT BOARD

of

DRITTE WIENER VEREINS-SPARCASSE AG

(„Dritte Wiener“ or „Acquiring Company“)

on the

**de-merger of the Business Division Austria
from Erste Bank to Dritte Wiener according to the
De-Merger and Acquisition Agreement**

Introduction

Due to the continuous expansion of its home market towards Central and Eastern Europe, Erste Bank has in recent years become one of the biggest financial service providers in this region.

In order to adequately accommodate this development, a new structure was created by internal operational and organisational changes, which concentrate the Austrian core customer business in a separate business division, while a holding structure has been established within the same legal entity, which aggregates vital corporate functions, infrastructure and business divisions with group-wide responsibilities.

In consequent continuance of this structural change, the legal separation of the Austrian core customer business concentrated in the Business Division Austria from the holding activities by way of de-merger by transfer to Dritte Wiener, a wholly owned subsidiary of Erste Bank, shall be implemented.

The implementation shall be made by a de-merger of the Business Division Austria from Erste Bank to Dritte Wiener by way of universal succession.

The Management Board of Erste Bank der oesterreichischen Sparkassen AG as Transferring Company and the Management Board of Dritte Wiener Vereins-Sparcasse AG as Acquiring Company herewith jointly issue their report in accordance with sec 4 and 17 No 5 of the Austrian De-merger Act (*Spaltungsgesetz*, „SpaltG“) in connection with § 220a of the Austrian Stock Corporation Act (*Aktiengesetz*, „AktG“):

1. De-Merger and Acquisition Agreement

- 1.1 Erste Bank as Transferring Company and Dritte Wiener as Acquiring Company prepared on 12 March 2008 a de-merger and acquisition agreement regarding the transfer of the Business Division Austria from Erste Bank to Dritte Wiener; it exists in a draft version (in the following „De-Merger and Acquisition Agreement“) and constitutes the basis of this report.
- 1.2 Terms used in this report shall have the same meanings as in the De-Merger and Acquisition Agreement, if used in the De-Merger and Acquisition Agreement.

2. Description of the de-merger

- 2.1 As already outlined in the introduction, Erste Bank intends to concentrate the central group functions, infrastructure and operational business areas that relate to the whole group, except the Austrian core customer business, into a holding company. It shall in the future perform the function of a managing holding company, but also operate as a bank.
- 2.2 For this reason, it will de-merge its Business Division Austria to a separate, already existing subsidiary, which is currently registered under the name „Dritte Wiener Vereins-Sparcasse AG“, in accordance with the SpaltG and with recourse to the benefits of Article VI Reorganisation Tax Act (*Umgründungssteuergesetz*, „UmgrStG“) under the waiver of granting new shares and by way of a universal succession.

3. Description of the De-Merger and Acquisition Agreement

3.1 General

- 3.1.1 The De-Merger and Acquisition Agreement exists as a draft version and will be concluded on 26 March 2008 by way of a notarial deed, which is the form required by sec 17 No 1 SpaltG.
- 3.1.2 As the latest financial statements of the companies involved in the de-merger – prepared as of 31 December, respectively – refer to a business year the expiry of which on the date of execution of the De-Merger and Acquisition Agreement on 26 March 2008 dates back no longer than six months, the preparation of an interim balance sheet pursuant to sec 7 para 2 No 3 SpaltG is not required.

3.2 Name, seat and articles of association of the involved companies

Sec 17 No 1 in connection with sec 2 para 1 No 1 SpaltG mandatorily require that statements on the name, the seat, and the articles of association of the involved companies have to be included into the De-Merger and Acquisition Agreement. This was done in Clause 1 of the De-Merger and Acquisition Agreement.

3.3 Transfer of assets of the Transferring Company

- 3.3.1 Upon registration of the de-merger in the Companies Register, the de-merged Assets of Erste Bank transfer by way of universal succession in accordance with sec 14 para 2 SpaltG to Dritte Wiener. By way of the de-merger process, the Business Division Austria and all Assets attributed thereto including all rights and obligations connected therewith, will be transferred in the meaning of the De-Merger and Acquisition Agreement to Dritte Wiener. Further perfection acts for the transfer are not required. The

universal succession is partial because it refers only to assets which are the subject of the de-merger.

3.3.2 In case of a universal succession, the rights and obligations from contractual relations with regard to the concerned assets and liabilities transfer to the acquiring company without the requirement of further consents by the contracting parties. Contracts included in the transfer may contain provisions, that in case of a change of the economic or legal ownership or control rights of a contracting party, the other contracting party may unilaterally demand the termination of the contract or an amendment of the contractual conditions. As Dritte Wiener is, however, a wholly owned subsidiary of Erste Bank, and the transfer of the de-merged Assets to Dritte Wiener as Acquiring Company does not result in a change of the economic or legal ownership or control rights, these prerequisites are not fulfilled.

3.4. No granting of shares

3.4.1 The reason for not granting shares in Dritte Wiener to the shareholders of Erste Bank is outlined in Clause 3.1 of the De-Merger and Acquisition Agreement. According to sec 17 No 5 SpaltG in connection with sec 224 para 2 No 1 AktG, the granting of shares in the acquiring company to the shareholders of the transferring company can be omitted in a de-merger if the shareholders of the transferring company directly or indirectly participate in the acquiring company in the same percentage. As the Acquiring Company is a wholly owned subsidiary of Erste Bank, and therefore of the Transferring Company, every shareholder of Erste Bank indirectly participates via its shareholding in Erste Bank in the same percentage in the Acquiring Company. For this reason, the granting of shares can be omitted. Furthermore, the de-merger of the Business Division Austria does not violate the prohibition of repayment of equity, due to the fact that the Business Division Austria is transferred from the Transferring Company to a wholly owned subsidiary and the assets of Erste Bank are thereby not diminished.

3.4.2 Clause 3.2 of the De-Merger and Acquisition Agreement outlines which statements provided in the SpaltG are not required in the De-Merger and Acquisition Agreement due to the fact that a granting of shares in Dritte Wiener does not take place. In general, these provisions relate to statements on the exchange ratio of the shares, their assignment, and further aspects in this context. A discussion of such provisions which do not apply can be omitted.

3.5 No capital decrease

If a de-merger loss occurs in the transferring company pursuant to sec 17 No 3 SpaltG in the course of a de-merger in such a way, that the share capital of the transferring company needs to be decreased, the de-merger must be registered only after compliance with the provisions concerning ordinary capital decrease. In case of the de-merger of the Business Division Austria, no such loss occurs. According to sec 33 para 7 in connection with 20 para 4

No 1 UmgrStG, the book value of the proportionate equity of the de-merged assets and liabilities needs to be added to the book value of the shareholding in the acquiring company in the balance sheet of Erste Bank. With regard to taxes, this results in neither a profit nor a loss. A reduction of the share capital or a release of capital reserves at the Transferring Company is therefore not necessary.

3.6 Effective date of the de-merger

The effective date of the de-merger is the end of 31 December 2007. The Final Balance Sheet refers to that date. The de-merger becomes effective – notwithstanding the effectiveness of the transfer pursuant to sec 14 para 2 SpaltG upon registration of the de-merger in the Austrian Companies Register – with regard to tax and contractual effects with the beginning of 1 January 2008.

3.7 Exact description and allocation of assets and liabilities

3.7.1 Sec 17 No 1 in connection with sec 2 para 1 No 10 SpaltG provides that the De-Merger and Acquisition Agreement has to contain an exact description and allocation of the assets and liabilities transferred to the Acquiring Company. The Assets to be de-merged consist of the Business Division Austria.

3.7.2 The Business Division Austria is described in more detail in the De-Merger and Acquisition Agreement. General clauses are used to describe the de-merged Assets to the maximum extent possible and are specified in particular cases by detailed lists and annexes.

3.7.3 The items included in the de-merged Assets can be identified with the help of the allocation rules in Clause 6 of the De-Merger and Acquisition Agreement.

3.7.4 The exact allocation of the transferred Assets is described in Clause 6 of the De-Merger and Acquisition Agreement. Clause 2.1 of the De-Merger and Acquisition Agreement and the detailed rules in Clause 6 provide in detail which Assets are part of the Business Division Austria and are therefore included in the de-merger, and which assets and liabilities are part of the residue assets and liabilities and therefore remain with the Transferring Company. Clause 6.7 of the De-Merger and Acquisition Agreement contains the provisions required by sec 2 para 1 No 11 SpaltG with respect to the allocation of assets and liabilities which would otherwise not be able to be allocated to one of the companies involved in the de-merger according to the De-Merger and Acquisition Agreement, and it provides for such case that said assets remain with the Transferring Company.

3.8 Final Balance Sheet, De-Merger Balance Sheet and Transfer Balance Sheet

According to sec 17 No 1 in connection with 2 para 1 No 12 SpaltG, the De-Merger and Acquisition Agreement has to include the final balance sheet of

the Transferring Company, hence the Final Balance Sheet of Erste Bank, as well as the De-Merger Balance Sheet which shows the assets and liabilities remaining with the Transferring Company after the de-merger. Furthermore, the De-Merger and Acquisition Agreement includes a Transfer Balance Sheet which outlines the de-merged Assets.

This balances have been drawn up. They are attached to the De-Merger and Acquisition Agreement as Annex 1, Annex 2 and Annex 3, and constitute integral parts of the De-Merger and Acquisition Agreement.

3.9 Miscellaneous

3.9.1 Clause 10 of the De-Merger and Acquisition Agreement contains statements on circumstances which have to be made pursuant to sec 2 para 1 Nos 8 and 9 SpaltG. Rights in the meaning of sec 2 para 1 No 8 SpaltG are not granted to individual shareholders or holders of special rights, nor are any kinds of advantages in the meaning of sec 2 para 1 No 9 SpaltG granted to any member of the management board or supervisory board of the companies involved in the de-merger or to an auditor involved in the de-merger.

3.9.2 Clause 10 of the De-Merger and Acquisition Agreement also outlines why the offer for a cash compensation in accordance with sec 17 SpaltG in connection with sec 11 SpaltG in connection with sec 2 para 1 No 13 SpaltG can be omitted. The de-merger on hand constitutes neither a de-merger between different legal forms pursuant to sec 11 SpaltG nor a non-proportionate de-merger according to sec 8 para 3 SpaltG. The provision of sec 11 SpaltG (cash compensation offer; *Barabfindungsgebot*) would only apply in case that shareholders of the Transferring Company would suffer a disadvantage by the granting of shares in the Acquiring Company due to the fact that the Transferring Company has a different legal form than the Acquiring Company. As with the transaction on hand this is not the case, this provision is not applicable.

3.10 Effectiveness of the de-merger

The De-Merger and Acquisition Agreement is conditional on the approval by the Shareholders' Meetings of Erste Bank and Dritte Wiener and by the approval of the de-merger by the Financial Markets Authority (*Finanzmarktaufsichtsbehörde*) in accordance with sec 21 para 1 No 6 of the Austrian Banking Act (*Bankwesengesetz*). Only when all three conditions have been fulfilled, the De-Merger and Acquisition Agreement enters into force by registration in the Companies Register of the Commercial Court Vienna. The documents required for the de-merger will also be filed with the mentioned court.

Vienna, 12 March 2008

Mag. Andreas Treichl

Johannes Kinsky

as collectively authorized members of the Management Board of
Erste Bank der oesterreichischen Sparkassen AG

Dr. Elisabeth Bleyleben-Koren

Dr. Peter Bosek

as collectively authorized members of the Management Board of
Dritte Wiener Vereins-Sparcasse AG

Annex VI

General Conditions of Contract of the Public Accounting Profession (AAB 2007)

General Conditions of Contract for the Public Accounting Professions (AAB 2007)

Laid down by the Working Group for Fees and Conditions of Contract of the Chamber of Public Accountants and Tax Advisors, recommended for use by the Board of the Chamber of Public Accountants and Tax Advisors in its decision of March 8, 2000, and revised by the Working Group for Fees and Conditions of Contract on May 23, 2002, on October 21, 2004, on December 18, 2006 as well as on August 31, 2007.

Preamble

(1) The General Conditions of Contract for the professions in the field of public accounting are divided into four sections: Section I deals with contracts for services, excluding contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions; Section II deals with contracts for rendering services in the field of bookkeeping, payroll accounting and administration and assessment of taxes and contributions; Section III covers contracts not regarded as contracts for the rendering of services, while Section IV is devoted to consumer business covered by the Austrian Consumer Act.

(2) In the event that individual provisions of these General Conditions of Contract are void, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

(3) The person entitled to exercise profession in the field of public accounting shall be obliged to render the services negotiated in accordance with the principles of due professional care and conduct. He/she shall have the right to engage suitable staff for the execution of the contract. This shall apply to all sections of The General Conditions of Contract.

(4) Finally, foreign law shall only be taken into account by the person entitled to exercise the profession, if this has been explicitly agreed upon in writing. This shall apply to all sections of the General Conditions of Contract.

SECTION I

1. Scope

(1) The General Conditions of Contract in Section I shall apply to contracts concerning (statutory and voluntary) audits with or without auditor's certificate, expert opinions, court expert opinions, preparation of annual financial statements and other financial statements, tax consultancy and other services to be rendered within the framework of a contract for the rendering of services, excluding bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

(2) The General Conditions of Contract shall apply, if their use has been explicitly or tacitly agreed upon. Furthermore, in the absence of another agreement, they shall be used for reference to facilitate interpretation.

(3) Point 8 shall also apply to third parties whose services, in certain cases, may be enlisted by the contractor for the execution of the contract.

2. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) Should the legal situation change subsequent to delivering a final professional statement, the person entitled to exercise the profession shall not be obliged to inform the client of changes or of the consequences thereof. This shall also apply to the completed parts of a contract.

(3) An application submitted by the person entitled to exercise the profession to an authority (e.g. tax office, social security institution) by electronic means, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to submit such an application.

3. Client's Obligation to Provide Information and Submit Complete Set of Documents

(1) The client shall make sure that all documents required for the execution of the contract be placed in good time and without special request at the disposal of the person entitled to exercise the profession and that he/she be informed of all events and circumstances which may be of significance for the execution of the contract. This shall also apply to documents, events and circumstances which become known only after the person entitled to exercise the profession has commenced his/her work.

(2) The client shall confirm in writing that all documents submitted, all information provided and explanations given in the context of audits, expert opinions and expert services are complete. This statement may be made on the forms specifically designed for this purpose.

(3) If the client fails to disclose considerable risks in connection with the preparation of annual financial statements and other statements, the contractor shall not be obliged to render any compensation in this respect.

4. Maintenance of Independence

The client shall be obliged to take all measures to make sure that the independence of the employees of the person entitled to exercise the profession be maintained and shall refrain from jeopardizing their independence in any way. In particular, this shall apply to offers of employment and to offers to accept contracts on their own account.

5. Reporting Requirements

(1) In the absence of an agreement to the contrary, a written report shall be drawn up in the case of audits and expert opinions.

(2) All information and opinions of the person entitled to exercise the profession and his employees shall only be binding provided they are set down or confirmed in writing. Written opinions shall only be those on which there is a company signature. Written opinions shall in no circumstances be information sent electronically, specifically not via e-mail.

(3) Transmission errors cannot be excluded when information is transmitted electronically. The person entitled to exercise the profession and his employees shall not be liable for losses which arise as a result of transmission errors. Electronic transmission (incl. via the Internet/e-mail) shall be exclusively at the client's risk. The client is aware that confidentiality is not guaranteed when the Internet is used. Furthermore, amendments or supplements to documents transmitted shall only be permissible subject to explicit approval.

(4) Receipt and forwarding of information to the person entitled to exercise the profession and his employees are not always guaranteed when the telephone is used, in particular in conjunction with automatic telephone answering systems, fax, e-mail and other electronic means of communication. As a result, instructions and important information shall only be deemed to have been received by the person entitled to exercise the profession provided they are also received in writing, unless explicit confirmation of receipt is provided in individual instances. Automatic confirmation that items have been transmitted and read shall not as such constitute explicit confirmations of receipt. This shall apply in particular to the transmission of decisions and other information relating to deadlines. As a result, critical and important notifications must be sent to the person entitled to exercise the profession by post or courier. Delivery of documents to employees outside the firm's offices shall not count as delivery.

(5) The client agrees to being sent recurrent general tax law and general commercial law information by the person entitled to exercise the profession via electronic means. This shall not apply to unsolicited information in accordance with § 107 of the Austrian Telecommunications Act (TKG).

6. Protection of Intellectual Property of the Person Entitled to Exercise the Profession

- (1) The client shall be obliged to ensure that reports, expert opinions, organizational plans, drafts, drawings, calculations and the like, issued by the person entitled to exercise the profession, be used only for the purpose specified in the contract (e.g. pursuant to Section 44 Para. 3 Austrian Income Tax Act 1988). Furthermore, professional statements made by the person entitled to exercise the profession may be passed on to a third party for use only with the written consent of the person entitled to exercise the profession.
- (2) The use of professional statements made by the person entitled to exercise the profession for promotional purposes shall not be permitted; a violation of this provision shall give the person entitled to exercise the profession the right to terminate without notice to the client all contracts not yet executed.
- (3) The person entitled to exercise the profession shall retain the copyright on his/her work. Permission to use the work shall be subject to the written consent by the person entitled to exercise the profession.

7. Correction of Errors

- (1) The person entitled to exercise the profession shall have the right and shall be obliged to correct all errors and inaccuracies in his/her professional statement which subsequently come to light and shall be obliged to inform the client thereof without delay. He/she shall also have the right to inform a third party acquainted with the original statement of the change.
- (2) The client has the right to have all errors corrected free of charge, if the contractor can be held responsible for them; this right will expire six months after completion of the services rendered by the person entitled to exercise the profession and/or – in cases where a written statement has not been delivered – six months after the person entitled to exercise the profession has completed the work that gives cause to complaint.
- (3) If the contractor fails to correct errors which have come to light, the client shall have the right to demand a reduction in price. The extent to which additional claims for damages can be asserted is stipulated under Point 8.

8. Liability

- (1) The person entitled to exercise the profession shall only be liable for violating intentionally or by gross negligence the contractual duties and obligations entered into.
- (2) In cases of gross negligence, the maximum liability for damages due from the appointed person entitled to exercise the profession is tenfold the minimum insurance sum of the professional liability insurance according to Section 11 of the Act on Professions in the Field of Public Accounting (WTBG) in the currently valid version.
- (3) Any action for damages may only be brought within six months after those entitled to assert a claim have gained knowledge of the damage, but not later than three years after the occurrence of the (primary) loss following the incident upon which the claim is based, unless other statutory limitation periods are laid down in other legal provisions.
- (4) Should Section 275 of the Company Code (UGB) be mandatorily applicable, the liability provisions pursuant to Section 275 shall apply where these represent mandatory law, even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place, irrespective of whether other participants have acted with intent.
- (5) In cases where a formal audit certificate is issued, the applicable limitation period shall commence at the latest at the time of issue of said audit certificate.
- (6) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, and the client is informed thereof, any warranty claims and claims for damages which arise against the third party according to law and in accordance with the conditions of the third party, shall be deemed as having been passed on to the client. The person entitled to exercise the profession shall only be liable for fault in choosing the third party.
- (7) The person entitled to exercise the profession shall not be liable to a third party, if his/her professional statements are passed on by the client without the approval or knowledge of the person entitled to exercise the profession.
- (8) The above provisions shall apply not only vis-à-vis the client but also vis-à-vis third parties, if the person entitled to exercise the profession, in exceptional cases, should be liable for his/her work. The maximum sum of liability shall be valid only once for all parties injured, including the compensation claims of the client, even if several persons (the client and a

third party or several third parties) have been wronged; the claims of the aggrieved parties shall be satisfied in the order in which the claims have been raised.

9. Secrecy, Data Protection

- (1) According to Section 91 WTBG the person entitled to exercise the profession shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his work for the client, unless the client releases him/her from this duty or he/she is bound by law to deliver a statement.
- (2) The person entitled to exercise the profession shall be permitted to hand on reports, expert opinions and other written statements pertaining to the results of his/her services to third parties only with the permission of the client, unless he/she is required to do so by law.
- (3) The person entitled to exercise the profession is authorized to process personal data entrusted to him/her within the framework of the purpose of the contract or to have them processed by a third party according to Point 8 Item 5. The person entitled to exercise the profession shall guarantee that according to Section 15 of the Data Protection Act secrecy be maintained. According to Section 11 of the Data Protection Act the material made available to the person entitled to exercise the profession (data carrier, data, control numbers, analyses and programs) as well as all results obtained as a result of the work provided shall be returned to the client, unless the client has requested in writing that the material and/or results be transferred to a third party. The person entitled to exercise the profession shall be obliged to take measures to ensure that the client can meet his/her obligation to provide information according to Section 26 of the Data Protection Act. The client's instructions required for this purpose shall be given in writing to the person entitled to exercise the profession. Unless a fee has been negotiated for providing such information, the client shall be charged only the actual efforts undertaken. The client shall meet his/her obligation to provide information to those concerned and/or to register in the data processing register, unless the contrary has been explicitly agreed in writing.

10. Termination

- (1) Unless otherwise agreed in writing or stipulated by force of law, either contractual partner shall have the right to terminate the contract at any time with immediate effect. The fee shall be calculated according to Point 12.
- (2) However, a continuing agreement (even with a flat fee) – always to be presumed in case of doubt – may, without good reason (cf. Section 88 Item 4 WTBG), only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.
- (3) Except for cases listed in Item 5, in case of termination of a continuing agreement only those tasks shall be part of the list of jobs to be completed and finished that can be completed fully or to the largest part within the period of notice, with financial statements and annual income tax returns being deemed to be subject to successful completion within two months calculated from the balance sheet date. In this case the above-mentioned jobs actually have to be completed within a reasonable period of time, if all documents and records required are provided without delay and if no good reason within the meaning of Section 88 Paragraph 4 WTBG is cited.
- (4) In case of a termination according to Item 2 the client shall be informed in writing within one month which assignments at the time of termination are considered to be part of the work to be completed.
- (5) If the client is not informed within this period about the assignments still to be carried out, the continuing agreement shall be deemed terminated upon completion of the tasks under way at the date when the notice of termination is served.
- (6) Should it happen that in case of a continuing agreement as defined under Items 2 and 3 – for whatever reason – more than two similar jobs which are usually completed only once a year (e.g. financial statements or annual tax returns etc.) are to be completed, any such jobs exceeding this number shall be regarded as assignments to be completed only with the client's explicit consent. If applicable, the client shall be informed of this explicitly in the statement pursuant to Item 4.

11. Default in Acceptance and Failure to Cooperate on the part of the Client

If the client defaults on acceptance of the services rendered by the person entitled to exercise the profession or fails to carry out a task incumbent on him/her either according to Point 3 or imposed on him/her in another way, the person entitled to exercise the profession shall have the right to terminate the contract without prior notice. His/her fees shall be calculated according to Point 12. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the person entitled to exercise the profession for the extra time and labor

hereby expended as well as for the damage caused, if the person entitled to exercise the profession does not invoke his/her right to terminate the contract.

12. Entitlement to Fee

(1) If the contract fails to be executed (e.g. due to termination), the person entitled to exercise the profession shall be entitled to the negotiated fee, provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client (Section 1168 of the Civil Code (ABGB)); in this case the person entitled to exercise the profession need not deduct the amount he/she obtained or could have obtained through alternative use of his/her own professional services or those of his/her employees.

(2) If the client fails to cooperate and the assignment cannot be carried out because of lack of cooperation, person entitled to exercise the profession shall also have the right to set a reasonable grace period on the understanding that, if this grace period expires without results, the contract shall be deemed cancelled and the consequences indicated in Item 1) shall apply.

(3) If the person entitled to exercise the profession terminates the contract without good reason and at an inopportune moment, he/she shall compensate the client for the damage caused according to Point 8.

(4) If the client – having been made aware of the legal situation – agrees that the person entitled to exercise the profession duly completes the task, the work shall be completed accordingly.

13. Fee

(1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved.

(2) Proper understanding between the person entitled to exercise the profession and their principals is most effectively achieved by clearly expressed remuneration agreements.

(3) The smallest service unit which may be charged is a quarter of an hour.

(4) Travel time to the extent required is also charged in most cases.

(5) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the person entitled to exercise the profession in his/her own office may also be charged as a special item

(6) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or special requirements of the principal, additional negotiations for the agreement of a more suitable remuneration are usual. This also usually applies where inadequate fixed sum remunerations are concerned.

(7) Persons entitled to exercise the profession also include charges for supplementary costs and value-added (turnover) tax in addition to the above.

(8) Supplementary costs also include documented or flatrate cash expenses, travelling expenses (first class for train journeys, sleeping car (wagon lits) if necessary, dietary requirements, mileage allowance, photocopy costs and similar supplementary costs.

(9) Should particular third party liabilities be involved, the necessary insurance premiums also count as supplementary costs.

(10) Personnel and material expenses for the preparation of reports, expertises and similar documents are also viewed as supplementary costs.

(11) For the execution of a commission wherein mutual conclusion involves several persons entitled to exercise the profession, each of the latter will charge his/her own remuneration.

(12) Remunerations and advance payments required are due immediately after receipt of their written claim should no other agreements exist. Where payments of remuneration are made later than 14 days after the due date, default interest may be charged. Where mutual business transactions are concerned, a default interest rate of 8% above the base rate is agreed upon (Cf. Section 352 of the Austrian Commercial Code (UGB)).

(13) Time limitation is in accordance with Section 1486 of the Austrian Civil Code (ABGB), starting at the time of conclusion of the service involved or a later rendering of accounts after an appropriate time-limit.

(14) An objection may be raised in writing against bills presented by the appointed trustee up to 4 weeks after the date of presentation. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.

14. Other Provisions

(1) In addition to the reasonable rate or fee charged, the person entitled to exercise the profession shall have the right to claim reimbursement of expenses. He/she can ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. In this context reference shall be made to the legal right of retention (Section 471 of the Civil Code (ABGB), Section 369 of the Company Code). If the right of retention is wrongfully exercised, the person entitled to exercise the profession shall be liable only in case of gross negligence up to the outstanding amount of his/her fee. As regards standing orders, the provision of further services may be denied until payment of previous services has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.

(2) With the exception of obvious essential errors, a complaint concerning the work of the person entitled to exercise the profession shall not justify the retention of remuneration owed in accordance with Item 1.

(3) Offsetting the remuneration claims made by the person entitled to exercise the profession in accordance with Item 1 shall only be permitted, if the demands are uncontested and legally valid.

(4) At the request and expense of the client, the person entitled to exercise the profession shall hand over all documents received from the client within the scope of his/her activities. However, this shall not apply to correspondence between the person entitled to exercise the profession and his/her client, to original documents in his/her possession or to documents which have to be kept in accordance with the directive on money laundering. The person entitled to exercise the profession may make or retain copies or duplicates of the documents to be returned to the client. The client shall be obliged to bear these expenses in so far as these copies or duplicates may be required as a proof of the orderly execution of all professional duties by the person entitled to exercise the profession.

(5) The client shall fetch the documents handed over to the person entitled to exercise the profession within three months after the work has been completed. If the client fails to do so, the person entitled to exercise the profession shall have the right to return them to the client at the cost of the client or to charge safe custody charges, if the person entitled to exercise the profession can prove that he/she has asked the client twice to pick up the documents handed over.

(6) The person entitled to exercise the profession shall have the right to compensation of any fees that are due by use of any available deposited funds, clearing balances, trust funds or other liquid resources at his/her disposal even if these funds are explicitly intended for safe keeping, if the client had to reckon with a counterclaim of the person entitled to exercise the profession.

(7) To safeguard an existing or future fee payable, the person entitled to exercise the profession shall have the right to transfer a balance held by the client with the tax office or another balance held by the client in connection with charges and contributions, to a trust account. In this case the client shall be informed about the transfer. Subsequently, the amount secured may be collected either after agreement has been reached with the client or after enforceability by execution has been declared.

15. Applicable Law, Place of Performance, Jurisdiction

(1) The contract, its execution and the claims resulting from it shall be exclusively governed by Austrian law.

(2) The place of performance shall be the place of business of the person entitled to exercise the profession.

(3) In case of disputes, the court of the place of performance shall be the competent court.

16. Supplementary Provisions for Audits

(1) For statutory audits of financial statements which are carried out in order to issue a formal audit certificate (e.g. Section 268 and the following sections of the Company Code), the purpose of the contract, unless otherwise agreed to in writing, shall not be to investigate whether regulations concerning tax laws or specific regulations, e.g. price fixing, restriction of competition and foreign exchange regulations have been adhered to. Neither shall the purpose of the statutory audit of financial statements be to investigate whether the business is run in an

economical, efficient and expedient manner. Within the framework of a statutory audit of a financial statement there shall be no obligation to detect the falsification of accounts or other irregularities.

(2) When a qualified or unqualified audit certificate is issued within the scope of a statutory audit of the annual financial statement, the audit certificate issued shall be appropriate for the respective type of business organization.

(3) If financial statements are published together with the audit certificate, they shall only be published in the form confirmed or explicitly permitted by the auditor.

(4) If the auditor revokes his/her audit certificate, the further use thereof shall no longer be permitted. If the financial statements have been published with the audit certificate, the revocation thereof shall also be published.

(5) For other statutory and voluntary audits of financial statements as well as for other audits, the above principles shall apply accordingly.

**17. Supplementary Provisions concerning the
Preparation of Annual Financial Statements and Other Financial
Statements,
Consultation and Other Services to be Provided
within the Framework of a Contract
for the Rendering of Services**

(1) The person entitled to exercise the profession, when performing the aforementioned activities, shall be justified in accepting information provided by the client, in particular figures, as correct. However, he/she is obliged to inform the client of any errors identified by him/her. The client shall present the person entitled to exercise the profession with all important documents required for keeping deadlines, in particular tax assessment notices, in good time so as to ensure that the person entitled to exercise the profession has a reasonable amount of time, but not less than one week, to process the information.

(2) In the absence of written agreements to the contrary, consultation shall consist of the following activities:

- a) preparing annual tax returns for income tax and corporate tax on the basis of the financial statements and other documents and papers required for taxation purposes and to be submitted by the client or prepared by the contractor.
- b) examining the tax assessment notices for the tax returns mentioned under a).
- c) negotiating with the fiscal authorities in connection with the tax returns and notices mentioned under a) and b).
- d) participating in external tax audits and assessing the results of external tax audits with regard to the taxes mentioned under a).
- e) participating in appeal procedures with regard to the taxes mentioned under a). If the person entitled to exercise the profession receives a flat fee for regular tax consultation, in the absence of written agreements to the contrary, the activities mentioned under d) and e) shall be invoiced separately.

(3) Particular matters pertaining to income tax, corporate tax and ratable value tax return as well as all matters relating to value-added tax, withholding tax on salaries and wages and other taxes and duties shall only be prepared on the basis of a specific contract. This shall also apply to

- a) processing non-recurring matters pertaining to tax, e.g. inheritance tax, capital transfer tax, land transfer tax,
- b) the defense and consultation in penal procedures relating to the taxes mentioned,
- c) providing consultation and expert opinions in matters pertaining to the foundation, restructuring, merger, capital increase and decrease, and reorganization of a company, entry and retirement of a shareholder or partner, sale of a business, winding up, management consultancy and other activities according to Sections 3 to 5 of the Act on Professions in the Field of Public Accounting (WTBG).
- d) the preparation of applications to the Register of Companies in connection with annual financial statements, including the keeping of records required.

(4) Provided the preparation of the annual value added tax return is part of the contract accepted, this shall not include the examination of any particular accounting conditions nor the examination of whether all relevant value added tax concessions have been utilized, unless the person entitled to exercise the profession can prove that he/she has been commissioned accordingly.

(5) The aforementioned paragraphs shall not apply to services requiring particular expertise provided by an expert.

SECTION II

18. Scope

The General Conditions of Contract in Section II shall apply to contracts for the rendering of services in the field of bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

19. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) The person entitled to exercise the profession shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and in using them as a basis for accounting. The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if errors are identified, he/she shall inform the client thereof.

(3) If a flat fee has been negotiated for the activities mentioned in Point 18, in the absence of written agreements to the contrary, representation in matters concerning all types of tax audits and audits of payroll-related taxes and social security contributions including settlements concerning tax assessments and the basis for contributions, preparation of reports, appeals and the like shall be invoiced separately.

(4) Particular individual services in connection with the services mentioned in Point 18, in particular ascertaining whether the requirements for statutory social security contributions are met, shall be dealt with only on the basis of a specific contract and shall be treated according to Section I or Section III of the General Conditions of Contract.

(5) Any application submitted to authorities (e.g. tax office, social insurance institution) electronically, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to transmit the application.

20. Client's Duty to Cooperate

The client shall make sure that all information and documents required for bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions be placed at the disposal of the person entitled to exercise the profession on an agreed date without his/her specific request.

21. Termination

(1) Unless otherwise agreed to in writing, either contractual partner may terminate the contract at the end of each month with three months' notice without giving a particular reason.

(2) If the client repeatedly fails to fulfill his/her duties according to Point 20, the person entitled to exercise the profession shall have the right to terminate the contract immediately without prior notice.

(3) If the person entitled to exercise the profession delays in rendering services due to reasons for which he/she is solely responsible, the client shall have the right to terminate the contract immediately without prior notice.

(4) In case of a termination of the contractual relationship only those assignments shall be considered part of the contract which the contractor is already working on or major parts of which can be completed within the period of notice and which are notified to the client within one month.

22. Fee and Entitlement to Fee

(1) Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.

(2) If the contract is terminated pursuant to Point 21 Item 2 the person entitled to exercise the profession shall have the right to the full fee negotiated for three months. This shall also apply if the client fails to observe the period of notice.

(3) If the contract is terminated pursuant to Point 21 Item 3, the person entitled to exercise the profession shall only have the right to the fee corresponding to the services rendered up to this point, provided they are of value to the client.

(4) If a flat fee has not been negotiated, the fee shall be calculated pursuant to Item 2 according to the monthly average of the current year of contract until termination.

(5) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against

the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.

23. Other Provisions

In all other cases, Point 1 Item 2, Point 4, Point 6, Point 7, Point 8, Point 9, Point 14 and Point 15 of Section I of the General Conditions of Contract shall apply accordingly.

SECTION III

24. Scope

(1) The General Conditions of Contract in Section III shall apply to all contracts not mentioned in the previous sections, which are not to be regarded as contracts for rendering services and are not related to the contracts mentioned in the previous sections.

(2) In particular, Section III of the General Conditions of Contract shall apply to contracts concerning the non-recurring participation in negotiations, to services as an agent in matters pertaining to insolvency, to contracts concerning non-recurring interventions and the handling of the individual matters mentioned in Point 17 Item 3 in the absence of a continuing agreement.

25. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) The person entitled to exercise the profession shall be justified in regarding and obliged to regard information and documents presented to him/her by the client, in particular figures, as correct and complete. In case of penal procedures he/she shall protect the rights of the client.

(3) The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if he/she identifies errors, the client shall be informed accordingly.

26. Client's Duty to Cooperate

The client shall make sure that all the necessary information and documents be placed at the disposal of the person entitled to exercise the profession in good time and without his/her special request.

27. Termination

Unless otherwise agreed to in writing or stipulated by force of law, either contractual party shall have the right to terminate the contract at any time with immediate effect (Section 1020 of the Civil Code (ABGB)).

28. Fee and Entitlement to Fee

(1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.

(2) In the event of termination the fee shall be calculated according to the services rendered up to this point, provided they are of value to the client.

29. Other Provisions

The reference in Point 23 to provisions in Section I shall apply accordingly.

SECTION IV

30. Scope

The Conditions of Contract of Section IV shall only apply to consumer business in accordance with the Consumer Act (Federal Law of March 8, 1979/Federal Law Gazette No. 140 as amended).

31. Supplementary Provisions

(1) Contracts between persons entitled to exercise the profession and consumers shall fall under the obligatory provisions of the Consumer Act.

(2) The person entitled to exercise the profession shall only be liable for the deliberate and gross negligent violation of the obligations assumed.

(3) Contrary to the limitation laid down in Point 8 Item 2 of the General Conditions of Contract, the duty to compensate on the part of the person entitled to exercise the profession shall not be limited in case of gross negligence.

(4) Point 8 Item 3 of the General Conditions of Contract (asserting claims for damages within a certain period) shall not apply.

(5) Right of Withdrawal according to Section 3 of the Consumer Protection Act

If the consumer has not made his/her contract statement in the office usually used by the person entitled to exercise his/her profession, he/she may withdraw from the contract application or the contract proper. This withdrawal may be declared until the contract has been concluded or within one week after its conclusion; the period commences as soon as a document has been handed over to the consumer which contains at least the name and the address of the person entitled to exercise the profession as well as instructions on the right to revoke the contract, but no earlier than the conclusion of the contract.

The consumer shall not have the right to withdraw from the contract.

1. if the consumer himself/herself established the business relationship concerning the conclusion of this contract with the person entitled to exercise the profession or his/her agent,

2. if the conclusion of the contract has not been preceded by any talks between the parties involved or their agents or

3. in case of contracts where the mutual services have to be provided immediately, if the contracts are usually concluded outside the offices of the persons entitled to exercise the profession, and the fee agreed upon does not exceed €15.

In order to become legally effective, the revocation shall be declared in writing. It is sufficient if the consumer returns a document that contains his/her contract declaration or that of the person entitled to exercise the profession to the person entitled to exercise the profession with a note which reveals that the consumer rejects the conclusion or the maintenance of the contract. It is sufficient if this declaration is dispatched within a week.

If the consumer withdraws from the contract according to Section 3 of the Consumer Act,

1. the person entitled to exercise the profession shall return all benefits received, including all statutory interest, calculated from the day of receipt, and to compensate the consumer for all necessary and useful expenses incurred in this matter,

2. the consumer shall pay for the value of the services rendered by the person entitled to exercise the profession as far as they are of a clear and predominant benefit to him/her.

According to Section 4 Paragraph 3 of the Consumer Act claims for damages shall remain unaffected.

(6) Cost Estimates according to Section 5 of the Consumer Act

The consumer shall pay for the preparation of a cost estimate in accordance with Section 1170a of the Austrian Civil Code by the person entitled to exercise the profession only, if this payment obligation has been notified to the consumer beforehand.

If the contract is based on a cost estimate prepared by the person entitled to exercise the profession, its correctness shall be deemed warranted as long as the opposite has not been explicitly declared.

(7) Correction of Errors: Supplement to Point 7

If the person entitled to exercise the profession is obliged according to Section 932 of the Austrian Civil Code to improve or complement his/her services, he/she shall execute this duty at the place where the matter was transferred to him/her. If it is in the interest of the consumer to have the work and the documents returned by the person entitled to exercise the profession, the consumer may carry out this transfer at his/her own risk and expense.

(8) Jurisdiction: Instead of Point 15 Item 3:

If the domicile or the usual residence of the consumer is within the country or if he/she is employed within the country, in case of an action against him/her according to Sections 88, 89, 93 Paragraph 2 and 104 Paragraph 1 JN the jurisdiction of a court shall depend on the district where the consumer has his domicile, usual residence or place of employment.

(9) Contracts on Recurring Services

(a) Contracts which oblige the person entitled to exercise the profession to render services and the consumer to effect repeated payments and which have been concluded for an indefinite period or a period exceeding one year, may be terminated by the consumer at the end of the first year, and after the first year at the end of every six months, by adhering to a two-month period of notice.

(b) If the total work is regarded as a service that cannot be divided on account of its character, the extent and price of which is determined already at the conclusion of the contract, the first date of termination may be postponed until the second year has expired. In case of such contracts the period of notice may be extended to a maximum of six months.

(c) If the execution of a certain contract indicated in lit.a) 1 requires considerable expenses on the part of the person entitled to exercise the profession and if he/she informed the consumer about this not later than when the contract was concluded, reasonable dates of termination and periods of notice which deviate from lit.a) and b) and which fit the respective circumstances may be agreed.

(d) If the consumer terminates the contract without complying with the period of notice, the termination shall become effective at the next termination date which follows the expiry of the period of notice.